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 FOR LEAVE TO PRESENT INDISPENSABLE NEW EVIDENCE**

**(Article 380 *C.C.P*.)**

[Appellant OR other status - insert the party’s status]

Dated [insert the date]

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

**TO THE HONOURABLE JUDGES OF THE COURT OF APPEAL, THE** [INSERT THE PARTY’S STATUS] **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. On [insert the date], the appellant appealed from that judgment;

[OR]

On [insert the date], the appellant was granted leave to appeal from that judgment, as it appears from the application for leave to appeal and the judgment granting leave;

1. Since the date of the trial judgment, new evidence has come to the attention of the [Appellant OR other status - insert the party’s status], namely [describe the new evidence that has come to your attention];
2. The presentation of this new evidence is absolutely necessary for resolving the dispute because [explain why this new evidence is indispensable];
3. Exceptional circumstances prevented the [Appellant OR other status - insert the party’s status] from knowing about this new evidence, namely [describe these circumstances];
4. The presentation of this new indispensable evidence is required in the interests of justice and is liable to change the outcome of the judgment;

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

 **GRANT** this application**;**

 **AUTHORIZE** the [Appellant OR other status - insert the party’s status] to present the following new evidence, namely [describe the new evidence], according to the method and conditions the Court determines;

 **THE WHOLE**, legal costs to follow.

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

 [Signature]

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

 [Name]

 [Appellant OR other status - insert the party’s status]

 [Address]

 [Telephone number]

 [Fax number, if any]

 [Email address]

 [Permanent code, where applicable]

[*If applicable, include an affidavit*]

|  |  |
| --- | --- |
| CANADAPROVINCE OF QUEBECDISTRICT OF [MONTREAL or QUEBEC]No.: [insert the file number in appeal][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] |

**AFFIDAVIT**

[Appellant OR other status - insert the party’s status]

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 OR other status - insert the party’s status];
2. All the facts alleged in the *Application for leave to present indispensable new evidence* are true.

|  |  |
| --- | --- |
|  | This [insert the date when the brief or memorandum is signed], in [name of city][Your signature][Your name][Appellant OR other status - insert the party’s status] |
| 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 for leave to present indispensable new evidence* will be presented before the judges 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 the Pierre-Basile-Mignault Courtroom.

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

**NOTICE IS HEREBY GIVEN** that the *Application for leave to present indispensable new evidence* will be presented before the judges 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 4.33.

**DO GOVERN YOURSELF ACCORDINGLY.**

**LIST OF SCHEDULES IN SUPPORT OF THE APPLICATION FOR LEAVE TO PRESENT INDISPENSABLE NEW EVIDENCE**

**TAB 1:** Judgment rendered by the Honourable [insert the name of the judge] of the [Court of Québec OR Superior Court] on [insert the date of the judgment under appeal];

**TAB 2:** Notice of appeal [OR] Application for leave to appeal and judgment granting leave;

**TAB 3:** [describe schedule 3] **[if applicable]**

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

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|  | No.: [insert the file number in appeal]No.: [insert the file number in first instance]COURT OF APPEAL OF QUEBECDISTRICT 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 FOR LEAVE TO PRESENT INDISPENSABLE NEW EVIDENCE****(Article 380 *C.C.P*.)**[Appellant OR other status - insert the party’s status]Dated [insert the date][Name][Address][Telephone number][Fax number, if any][Email address][Permanent code, where applicable] |  |

**NOTES**

**Filing 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 party presenting the application must reserve a presentation date with the Court by contacting the Court office by telephone. The application must be filed within five working days of the date on which the reservation was made (s. 66 para. 4 *R.C.A.Q.Civ.M.*). Failure to file the application within this time limit will result in the reservation being canceled without further notice. To find out the available dates for presenting an application before a panel, 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.
* At least ten working days prior to the date of presentation, the application must be filed at the counter of the Court office in quadruplicate on paper or using the Digital Office of the Court of Appeal. 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***).

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 for leave to present indispensable new evidence 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. |