**[Court of Appeal's file number]**

**COURT OF APPEAL OF QUEBEC**

([indicate: Montreal or Quebec])

Appeal from a judgment of the [Superior Court or Court of Quebec], District of [name of district], rendered on [date] by the Honourable [name of judge]

No.: [file number in first instance]

**[INDICATE THE NAME OF THE APPELLANT]**

**APPELLANT –**

([indicate the party’s status at trial])

v.

**[INDICATE THE NAME OF THE RESPONDENT]**

**RESPONDENT** –

([indicate the party’s status at trial])

**APPELANT’S BRIEF**

Dated [date on which the pleading is signed]

[Name of councel OR your name] [Name of councel OR your name]

[Address] [Address]

[Phone number] [Phone number]

[Fax number] [Fax number]

[email address] [email address]

**Appellant Respondent**

[the cover page of the appellant's brief shall be yellow (sec. 49a) Civil Practice Regulation of the Court of Appeal]

|  |
| --- |
| **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. |

**TABLE OF CONTENTS**

The first volume of the brief shall begin with a general table of contents and each volume shall begin with a table of its contents (s. 49(c) Civil Practice Regulation of the Court of Appeal).

**Page**

Volume 1

ARGUMENT OF THE APPELLANT

PART I FACTS ……………………………………………………………... 1

PART II ISSUES IN DISPUTE ……………………………………………… 2

PART III SUBMISSIONS …………………………………………………...... 3

1. [title of subject] …………………………………….. …… 3

2. [title of subject] ………………………………………………. 3

3. [title of subject] …………………………………………… 3

PART IV CONCLUSIONS………………………………………………………… 4

PART V AUTHORITIES .................................................................................. 5

SCHEDULE I – JUDGMENT UNDER APPEAL

Judgment rendered on [date of judgment] by the Honourable [name of judge] of the [Superior Court or Court of Quebec], District of [...]……………………………………….. 7

**TABLE OF CONTENTS**

**Page**

SCHEDULE II – PROCEEDING AND LEGISLATION

NOTICE OF APPEAL, [*and, if applicable*: APPLICATION FOR LEAVE TO APPEAL AND JUDGMENT GRANTING LEAVE TO APPEAL]

Notice of appeal

[date of the proceeding] …………………………………………………………….. 9

[If applicable]

Application for leave to appeal

[date of the application]…….……………………………………………………… 9

Judgment granting leave to appeal

[date of the judgment]………………………………………………………..….. 9

PROCEEDINGS

[include all relevant proceedings to the appeal. For example:]

Originating Demand - [date of the proceeding]……………………………………………… 9

Defendant’s answer - [date of the proceeding]……………………………........................... 9

STATUTORY AND REGULATORY PROVISIONS

[include all applicable statutory and regulatory provisions, in both official languages, if available, other than those in the Civil Code of Quebec ans the Code of civil procedure]

Section 20 of the *Code of ethics of physicians*, R.L.R.Q., c. M-9, r. 17…………….. 11

Section 60.4 of the *Professional Code*, R.L.R.Q. c. C-26……………………………. 11

Sections 4, 5, and 9 of the *Charter of human rights and freedoms*,

R.L.R.Q., c. C-12………………………………………………………………….. 11

SCHEDULE III – EXHIBITS AND DEPOSITIONS

EXHIBITS

[In the order of their numbering, list the exhibits or excerpts that are necessary for the consideration of all of the issues in dispute; the following may be used as an example]

Investigation notes by Officer Luc Galipeau, dated March 13, 2009 (P-1) ………. 13

Letter from Dr. Marc Tremblay, dated March 13, 2009 (P-2) ……………….……… 13

Report of Dr. Louis Morissette, psychiatrist, dated September 2, 2009 (P-3) …… 13

DEPOSITIONS

[Reproduce the depositions or excerpts that are necessary for the consideration of all of the issues in dispute; the following may be used as an example]

Hearing of February 1, 2010

Plaintiff's evidence

CAROLE GAGNON

In chief by Mtre Gladu……………………………………………. 15

Cross-exam. by Mtre Côté……………………………………………… 15

Defendant's evidence

MARC TREMBLAY

In chief by Mtre Côté……………………………………………… 15

Cross-exam. by Mtre Gladu…………………………………………….  15

LUC GALIPEAU

In chief by Mtre Côté ……………………………………………… 15

Cross-exam. by Mtre Gladu……………………………………………. 15

ATTESTATION

Attestation of the author of the brief………………………………………………….. ……… 16

**ARGUMENT OF THE APPELLANT**

**PART I: FACTS**

[State the facts succinctly; it is possible to include a joint statement of the facts and issues in dispute at the beginning of schedule III (Article 372 C.C.P.]

1. [...]

2. [...]

3. [...]

Section 49 of the Civil Practice Regulation of the Court of Appeal

● Page numbers in Parts I to V must be indicated at the top of the page in the center;

● Part I to IV cannot exceed 30 pages (article 44);

● The text of the argument shall have at least one and one-half (1.5) spaces between the lines;

● Quotations must be single-spaces and indented;

● Characters must be in 12‑point font size there must be no more than

12 characters per 2,5 cm; using Arial font size 12 is strongly recommended, margin shall be no less than 2.5 cm;

● Paragraphs of the argument must be numbered;

● The pages of the argument must be printed only on the left side only;

**PART II: ISSUES IN DISPUTE**

[State concisely the issues in dispute; it is possible to include a joint statement of the facts and issues in dispute at the beginning of schedule III (Article 372 C.C.P.]

5. The appellant identifies the issues in dispute as follows:

1. **[first issue in dispute]**

6. [résumer votre position pour cette première question en litige]

1. **[second issue in dispute]**

7. [résumer votre position pour cette deuxième question en litige]

8. [...]

9. [...]

10. [...]

**PART III: SUBMISSIONS**

[develop your submissions, with specific reference to the content of the schedules]

**1. [first issue in dispute]**

12.Article 1618 of the *Civil Code of Quebec* provides as follows:

1618.  Damages other than those resulting from delay in the performance of an obligation to pay a sum of money bear interest at the rate agreed by the parties, or, in the absence of agreement, at the legal rate, from the date of default or from any other later date which the court considers appropriate, having regard to the nature of the injury and the circumstances.

13. The trial judge found that the date of the filing of the law suit, June 10, 2010, should be retained for past expenses, non‑pecuniary damages (moral damages and solatium doloris), and for the calculation of interest and additional indemnity in relation to them.[[1]](#footnote-1)

14. [...]

**PART IV: CONCLUSIONS**

[Formulate specific conclusions sought, including costs; the following may be used as an example]

**THE APPELLANT ASKS THE COURT OF APPEAL TO:**

**ALLOW** the appeal;

**SET ASIDE** the trial judgment;

**GRANT** the appellant's originating demand;

**CONDEMN** the respondent to pay the appellant the amount of $245,000 plus interest at the legal rate plus additional indemnity as set out in article 1619 *C.C.Q*., as of the date of the demand letter;

**CONDEMN** the respondent to pay costs both at first instance and on appeal;

On [date on which the pleading was signed], in [name of city]

[signature]

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

[Nom of the author]

Appellant

**PART V: AUTHORITIES**

[Provide a list of authorities for the case law and doctrine cited, arranged in the order in which they are cited in the arguments and indicate the paragraphs mentioned; the following may be used as an example.]

**Paragraph(s)**

**CASE LAW**

*Deschênes v. Desparois*, EYB 2007-116601 (Sup. Ct.) 7

*Lauzon v. Patenaude*, J.E. 2002-134 (C.A.) 10

*Lafontaine v. Larochelle*, J.E. 2008-153 (Sup. Ct.) 12

*Brochu v. Simard*, EYB 2007-10643 (C.A.) 19

**DOCTRINE**

Jean-Claude Royer, *La preuve civile*, 4th ed. (Cowansville, Qc: Yvon Blais, 2008) 17

Jean-Louis Beaudouin & Patrice Deslauriers, *La responsabilité civile*, 7th ed. (Cowansville, Qc.: Yvon Blais, 2007) 18

[The book of authorities shall be filed at the Office of the Court at least 30 days before the hearing of an appeal (Article 58 of the Civil Practice Regulation of the Court of Appeal)]

**SCHEDULE I – JUDGMENT UNDER APPEAL**

[The pages of Schedule I must be printed only on the left: section 49 g) of the Civil Practice Regulation of the Court of Appeal]

Judgment under appeal, [date]

[insert the judgment]

**SCHEDULE II – PROCEEDINGS AND STATUTORY PROVISIONS**

[If applicable, the pages of Schedule II are printed double sided (section 49 g) of the Civil Practice Regulation of the Court of Appeal)]

Notice of Appeal dated [date of the pleading]

[Attach the Notice of Appeal. Then, if applicable, attach the other relevant proceedings]

**SCHEDULE II – STATUTORY PROVISIONS**

[If applicable, the pages of Schedule II are printed double sided (section 49 g) of the Civil Practice Regulation of the Court of Appeal)]

Code of ethics of physicians, R.L.R.Q., c. M-9, r. 17

chapter M-9, r. 17

**Code of ethics of physicians**

**Medical Act**

 (chapter M-9, s. 3)

**Professional Code**

 (chapter C-26, s. 87)

**CHAPTER  III**  
THE PHYSICIAN'S DUTIES AND OBLIGATIONS TOWARD THE PATIENT, THE PUBLIC AND THE PROFESSION

**DIVISION  I**  
QUALITY OF THE PROFESSIONAL RELATIONSHIP

**20.**A physician, in order to maintain professional secrecy,

  (1)    must keep confidential the information obtained in the practice of his profession;

  (2)    must refrain from holding or participating in indiscreet conversations concerning a patient or the services rendered him or from revealing that a person has called upon his services;

  (3)    must take reasonable means with respect to the persons with whom he works to maintain professional secrecy;

  (4)    must not use information of a confidential nature to the prejudice of a patient;

**SCHEDULE III**

**EXHIBITS**

[schedule III shall be printed on both sides (section 49 g) of the Civil Practice Regulation of the Court of Appeal)]

P-1: Investigation notes by Luc Galipeau, dated [date]

[insert document]

**SCHEDULE III**

**DEPOSITIONS**

[schedule III shall be printed on both sides (section 49 g) of the Civil Practice Regulation of the Court of Appeal)]

GAGNON Carole, 1 Notre-Dame Street East, Montreal (Demand, Evidence in Chief, exam.)

[insert the exhibit]

**ATTESTATION OF THE AUTHOR OF THE BRIEF**

I, the undersigned, [name of the author], attest to the brief’s conformity with the *Rules of* the *Civil Practice Regulation of the Court of Appeal* and and that the depositions that I have had transcribed are at the disposal of the adverse party, free of charge, in paper or technological format.

The time requested for the presentation of my oral argument is [number of minutes requested] minutes.

On [date on which the brief was signed], in [city where it was signed]

[signature]

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

[name of the author]

Appellant

Warning: this template does not exempt the user from reading the relevant laws and regulations. For more information, refer to the checklist in civil matters and the frequently asked questions.

1. Judgment appealed from, paras. 248-249. [↑](#footnote-ref-1)