CANADA

PROVINCE OF QUEBEC

DISTRICT OF [MONTREAL OR QUEBEC]

No: [File number in appeal]

No: [File number in first instance]

[write CONFIDENTIAL if applicable]

COURT OF APPEAL

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

[APPELLANT'S NAME]

APPELLANT *-* [appellant's status in first instance]

v.

[RESPONDENT'S NAME]

RESPONDENT - [respondent's status in first instance]

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

**APPLICATION TO SUSPEND THE PROVISIONAL EXECUTION OF A JUDGMENT OF THE COURT OF APPEAL**

**(Articles 390, paragraph 2 *C.C.P.* and 65.1 (1) *Supreme Court Act*)**

[Party filing the application]

Dated [date of the application]

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

**TO ONE OF THE HONOURABLE JUDGE OF THE COURT OF APPEAL, THE** [PARTY FILING THE APPLICATION] **SUBMITS:**

1. On [date of judment of first instance], the Honourable [name of judge] of the [name of the court of first instance] District of [name of district], rendered that [disposition of the judgment], as it appears from the judgment attach to this application (schedule I);
2. On [date of judgment of the Court of Appeal], this Court dismissed the appeal of this judgment, as it appears from the judgment attached to this application (schedule II);

[OR]

On [date of judgment of the Court of Appeal], this Court confirmed this judgment, as it appears from the judgment attached to this application (schedule II);

1. The [Party filing the pleading] will appear before the Supreme Court of Canada to present an application for leave to appeal of this judgment;

[OR]

On [date on which you filed your application for leave before the Supreme Court], the [Party filing the pleading] filed at the Registry of the Supreme Court of Canada an application for leave to appeal, as it appears in the Notice of the Application For Leave to Appeal attached to this application (schedule III);

1. The [Party filing the pleading] will present to the Supreme Court the following questions:

**[Briefly set out the questions you wish to submit to the Supreme Court]**

1. The [Party filing the pleading] asks this Court to suspend the execution of its judgment (schedule II) for the following reasons:

**[Present the reasons justifying the suspension of the judgment of the Court of Appeal. State the existence of a serious question to be debated before the Supreme Court, an irreparable prejudice and a balance of inconveniences]**

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

**GRANT** this application;

**SUSPEND** the execution of the judgment rendered on [date of the judgement of the Court of Appeal], in file number [file number in appeal], pending the time limit to ask for leave to appeal to the Supreme Court, or until leave to appeal is dismissed or until judgment on the appeal is rendered;

**THE WHOLE**, with costs.

[city and date of signature],

 [your signature]

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

 [your name]

 [party filing the pleading]

 [your address]

 [your phone number]

 [your fax number, if applicable]

 [your email address, if applicable]

|  |  |
| --- | --- |
| CANADAPROVINCE OF QUEBECDISTRICT OF [MONTREAL OR QUEBEC]No: [file number in appeal]No: [first instance file number][write CONFIDENTIAL if applicable]  | COURT OF APPEAL[YOUR NAME]APPELLANT - [your status in first instance]v.[NAME OF THE OPPOSING PARTY]RESPONDENT - [opposing party's status in first instance] |

**AFFIDAVIT**

[Party filing the application]

[Date]

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

I, [your name], the undersigned, domiciled and residing at [your address] declare the following:

1. I am the [party filing the application];
2. All of the facts alleged facts in the *Application to suspend provisional execution of a judgment of the Court of appeal* are true.

This [date] in [city where the affidavit is signed]

 [your signature]

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

 [your name]

 [Party filing the application]

Solemnly affirmed before me in

[city where the affidavit is signed], on [date]

[signature of the person receiving this affidavit]

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

[name and capacity of the person receiving this affidavit]

**NOTICE OF PRESENTATION**

**To:** [name of the party on whom the application will be notified], [status of the notifed party in appeal], [notified party's address].

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

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

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

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

**PLEASE GOVERN YOURSELF ACCORDINGLY.**

|  |  |
| --- | --- |
| CANADAPROVINCE OF QUEBECDISTRICT OF [MONTREAL OR QUEBEC]No.: [file number in appeal]No.: [first instance file number][write CONFIDENTIAL if applicable] | COURT OF APPEAL[YOUR NAME]APPELLANT - [your status in first instance]v.[Name of the Opposing Party]RESPONDENT - [opposing party's status in first instance] |

**LIST OF SCHEDULES IN SUPPORT OF**

**APPLICATION TO SUSPEND THE PROVISIONAL EXECUTION OF A JUDGMENT OF THE COURT OF APPEAL**

[Party filing the application]

[Date]

**SCHEDULE 1:** Judgment rendered by the Honourable [Name of the First Instance Judge], [Court of First Instance], rendered [Date of the First Instance Judgment];

**SCHEDULE 2:** **[Description of the schedule, if applicable]**.

**[Be sure to include all schedules necessary to support your Application]**

**SCHEDULE 1**

Judgment rendered by the Honourable [Name of the First Instance Judge] of the [Court of First Instance] rendered [Date of the First Instance Judgment]

**[Attach Schedule 1 Here]**

**SCHEDULE 2**

[If applicable, describe Schedule 2]

**[Attach Schedule 2 Here]**

|  |  |  |
| --- | --- | --- |
|  | No: [File number in appeal]No: [File Number in First Instance]COURT OF APPEAL OF QUEBECDISTRICT OF [MONTREAL OR QUEBEC][YOUR NAME]APPELLANT – [your status in first instance]v.[NAME OF THE OPPOSING PARTY]RESPONDENT – [opposing party's status in first instance]**APPLICATION TO SUSPEND THE PROVISIONAL EXECUTION OF A JUDGMENT OF THE COURT OF APPEAL** **(Articles 390, paragraph 2 *C.C.P.* and 65.1 (1) *Supreme Court Act*)**[Party filing the application][Date][your name (and counsel number, if applicable)][your address][your phone number][your fax number, if applicable][your email address, if applicable] |  |

**NOTES**

**Filing and Notification**

* The *Application to suspend provisional execution of a judgment of the Court of appeal* shall be notified to the other parties (sec. 25 of the *Civil Practice Regulation*). However, if the said party is not represented by a lawyer, the application shall be served to that party (sec. 133 par. 2 of the *Civil Practice Regulation*). It shall be filed in two copies with the Office of the Court of Appeal at least 2 working days before the presentation date (art. [377](http://legisquebec.gouv.qc.ca/en/ShowDoc/cs/C-25.01#se:377) of the *Code of Civil Procedure* and [sections 28](http://legisquebec.gouv.qc.ca/fr/ShowDoc/cr/C-25.01%2C%20r.%2010/?langCont=en#se:28) and [63](http://legisquebec.gouv.qc.ca/en/ShowDoc/cr/C-25.01%2C%20r.%2010/#se:63) of the *Civil Practice Regulation* of the Court of Appeal).

**Drafting**

* The application may not exceed 10 pages ([section](http://legisquebec.gouv.qc.ca/fr/ShowDoc/cr/C-25.01%2C%20r.%2010/?langCont=en#se:27) [59](http://legisquebec.gouv.qc.ca/en/ShowDoc/cr/C-25.01%2C%20r.%2010/#se:59) of the *Civil Practice Regulation* of the Court of Appeal and [Practice Direction G-2](http://courdappelduquebec.ca/fileadmin/Fichiers_client/Procedures_et_avis/_en_Directives_du_greffier/Practice_Direction_G-2_-_Vf_-_19_avril_2016.pdf)). The designation of the parties and the conclusions are not included in the page count (see [Practice Direction G-2](http://courdappelduquebec.ca/fileadmin/Fichiers_client/Procedures_et_avis/_en_Directives_du_greffier/Practice_Direction_G-2_-_Vf_-_19_avril_2016.pdf)).
* On March 3, 2017, [a Notice of Amendment respecting section 21 of the *Civil Practice Regulation* of the Court of Appeal](http://courdappelduquebec.ca/fileadmin/Fichiers_client/Procedures_et_avis/Directives_du_greffier/ENGLISH_Avis_JEC_-_art._21_et_49d__vf_-_3_mars_2017_-_v2.pdf) was issued inviting parties to draft their proceedings in Arial or a similar typeface for which the size 12 font contains no more than 12 characters per 2.5 cm (thereby excluding the typefaces Times New Roman and Garamond). The parties are invited to apply this directive immediately as though it has already been adopted.

**Schedules**

* Pursuant to [section 60](http://legisquebec.gouv.qc.ca/en/ShowDoc/cr/C-25.01%2C%20r.%2010/#se:60) of the *Civil Practice Regulation*, a motion must be accompanied by all of the documents necessary for the adjudication of the application in order to be presentable on the date mentioned in the Notice of Presentation.

|  |
| --- |
| **WARNING**: This template does not exempt those who use to it from reading the relevant legal provisions. It is available to facilitate the confection of proceedings in appeal. Every proceeding is verified by the clerk of the court of appeal and may be refused or subject to modifications if is not conform.  |