

CANADA

COURT OF APPEAL

PROVINCE OF QUEBEC
REGISTRY OF ... (Montreal or Quebec)

... (*your name*)

No.: (*file number at the Court of Appeal*)
No.: (*file number at first instance*)

APPELLANT - ... (*your position in first instance*)

v.

... (*name of adverse party*)

RESPONDENT - ... (*position of adverse party in first instance*)

MOTION FOR THE RESTORATION OF AN APPEAL
(Article 16 of the Rules of the Court of Appeal of Quebec in Civil Matters)

TO THE HONOURABLE JUSTICES OF THE COURT OF APPEAL, THE APPELLANT RESPECTFULLY SUBMITS:

1. On ... (*date on which the trial judgment was rendered*), the Honourable (*name of judge*), of the ... (*name of court*), District of ... (*name of district*), rendered that ... (*disposition of the trial judgment*), as it appears in the judgment attached to this motion (**Schedule 1**);
2. On ... (*date on which the Inscription in Appeal was filed*), the Appellant appealed this judgment before this Court, as it appears in the Inscription in Appeal attached to this motion (**Schedule 2**);

or

On ... (*date on which the appeal was granted*), the Appellant was authorized to appeal this judgment, as it appears in the judgment authorizing the appeal attached to this motion (**Schedule 2**);

3. The Appellant had to serve and file a factum (*or argument and documents standing in lieu of the factum*) at the latest ... (*date when you must file your factum or the arguments and documents standing in lieu of the factum*);
4. The Appellant could not serve or file the factum (*or the arguments and documents standing in lieu of the factum*) in the prescribed time delay for the following reasons:
5. (*State the reasons why you could not serve and file your factum or the arguments and documents standing in lieu of the factum in the prescribed time delay*);
6. The Inscription in Appeal raises serious arguments that cannot be considered as trivial, improper or dilatory, as it appears in the attached inscription (**Schedule 2**);

or

If the permission to appeal is granted, the appeal cannot be seen as trivial, improper or dilatory;

7. The Appellant acted with diligence by producing a motion as soon as the default was noted;
8. The Appellant is thus allowed to ask for a term of ... days in order to file the factum (*or the arguments and documents standing in lieu of the factum*);

or

The Appellant is in right to ask that the authorization to file the factum (*or the arguments and documents standing in lieu of the factum*) during the presentation of this motion be granted;

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

GRANT this motion;

RESTORE the present appeal;

AUTHORIZE the Appellant to serve and file the factum (*or the argument and documents standing in lieu of the factum*) in a delay of ... days (*number of days required in order to serve and file your factum or the arguments and documents standing in lieu of the factum*);

or

AUTHORIZE the Appellant to deposit, today, at the Office of the Court of Appeal, his factum (*or the arguments and documents standing in lieu of the factum*);

THE WHOLE, without costs.

..... (*city and date where the motion will be signed*)

(*Your signature*)

.... (*Your name*)

Appellant

Attach an affidavit, a notice of presentation, and a list of schedules to the motion.

As provided in article 28 of the Rules of the Court of Appeal in Civil Matters, 4 copies of the motion must be filed at the Office of the Court with documents attached at least 5 clear juridical days before the date of presentation. (One clear juridical day is constituted by an entire day, excluding Saturday, Sunday, and statutory holidays. For more information on clear juridical days, please consult article 6 and 8 of the Code of Civil Procedure.) Do not forget to attach proof of service of the motion on the adverse party or on its attorney.

THIS MODEL DOES NOT EXEMPT THOSE WHO USE IT FROM READING THE RELEVANT PROVISIONS OF THE CODE OF CIVIL PROCEDURE, THE RULES OF THE COURT OF APPEAL OF QUEBEC IN CIVIL MATTERS, AS WELL AS THE DOCUMENTS ENTITLED "CHECKLIST IN CIVIL MATTERS" AND "FREQUENTLY ASKED QUESTIONS (IN CIVIL MATTERS)."
