

COURT OF APPEAL
Civil Practice Regulation

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¹ The sequence of chapters is that of the *Code of Civil Procedure*, CQLR, c. C-25.01.

² The articles in parentheses are those of the *C.C.P.*

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Preliminary Provisions

1. *Enabling Provision.* This Regulation is adopted pursuant to the Court's powers arising out of its administrative independence (*Re Provincial Court Judges*, [1997] 3 S.C.R. 3), in conformity with article 63 of the *Code of Civil Procedure (C.C.P.)*.
2. *Interpretation (Art. 25).* This Regulation is complementary to the *C.C.P.*; it shall be interpreted and applied in the same manner.

I Public Hearings and Decorum (Art. 11 – 15)

3. *Sitting Days (Art. 82).* The dates on which the Court, a judge or a clerk sit are published on the Court's web site (www.courdappelduquebec.ca/en/).
4. *Court Usher (Art. 14, para. 3).* A court usher shall be present during all hearings and is responsible for the opening and closing of each sitting.
5. *Decorum (Art. 14).* The judge presiding at a hearing shall take all necessary measures to ensure the maintenance of decorum and the respect of all those present.
6. *Sound Devices.* Everyone present must turn off the sound of any device in their possession.
7. *Dress.* In Court, the following dress is obligatory:
 - (a) for counsel: a gown, bands, white collared shirt and dark garment;
 - (b) for articulated students: a gown and dark garment;
 - (c) for clerks and court ushers: a gown and dark garment.Before a judge or clerk: simple and unadorned attire.

II Confidentiality (Art. 16 and 108, para. 1)

8. *Express Reference.* If any part of the file is confidential, the notice of appeal (*Art. 353*) and the representation statement by counsel (*or non-representation statement*) (*Art. 358*) shall include express reference to this effect as well as a specific reference to the legislative provision or court order that is the basis of the confidentiality.

Additional Reference. In any such file, each proceeding must include the word "CONFIDENTIAL" beneath the court file number.

9. *Restricted Access.* In such files, access to documents filed under seal is restricted (*Art. 16, para. 2*).
10. *Red Binding (Art. 370).* Red binding or a band shall be used to indicate the confidential nature of a volume. The confidential portion of a brief shall be produced in a separate volume.

III Technological Means (Art. 26)

11. *Technological Version.* The parties shall attach the technological version to each copy of their brief in an accessible format (*CD Rom, DVD-Rom, USB key*) where available. Such technological version must permit key-word searches and include hyperlinks from the table of contents to the brief and from the memorandum to the schedules to the extent possible.

Such version must be identified in the same manner as a proceeding (*file number, the style of cause, an abbreviated title, date and notation of confidentiality ...*).

12. Appeal Management (Art. 367 and 370, para. 2). The filing of any other documents (*applications, exhibits, depositions...*) by technological means or on paper may be ordered by an appeal management decision.

IV Quarrelsome Conduct (Art. 55)

13. Scope. Upon application and proof of quarrelsome conduct, the Court may subject a party to prior authorization for any legal proceeding.

The Court may also do so on its own initiative or on that of a judge, in which case the Clerk shall advise the party of the grounds being invoked and summon such party before the Court.

14. Prohibited Access. The Court may prohibit a quarrelsome party access to its premises.

15. Request for Authorization. A party declared to be quarrelsome who seeks to file a pleading shall request authorization by letter addressed to the Chief Justice and file it at the Office of the Court, to which there shall be attached the judgment declaring the party to be quarrelsome and the proposed proceeding.

16. Consequence. Failing authorization, the proceeding is deemed never to have existed (*and thus cannot be filed*).

V Court Offices (Art. 66 and 67)

17. Office Hours. The Court offices are open from 8:30am to 4:30pm. The days on which they are open are published on the Court's web site.

18. Register. The Clerk shall maintain a computerized register (*docket*), which for each file, shall include all relevant information (*such as the contact information of the parties and their counsel, receipt of documents, and matters arising during the appeal*).

19. Contact. The Clerk shall use the last known contact information of the parties and their counsel to contact them. A party who is not represented shall provide the necessary contact information in the notice of appeal or the non-representation statement (*Art. 358, para. 2*) and in the pleadings. The counsel responsible for the file (*Art. 103*) shall include their name, that of the law firm and all their contact information (*including their email address, their permanent code and their locker number, where applicable*) in the pleadings.

20. Access to a File (Art. 66). The consultation of a file and the removal of a document shall take place under the authority of the Clerk. The Clerk may provide photocopies of documents upon the payment of the applicable costs.

VI Proceedings (Art. 99 – 104)

21. Format. Proceedings shall be drafted on good quality white paper in letter format (*21.5 cm x 28 cm*).

The text shall be reproduced on one side only of each sheet, with a minimum of one and one half spaces between the lines, except for quotations that are single spaced and indented. The margins shall be no less than 2.5 cm, and the computer type face shall be 12 point.

22. Style of Cause. The style of cause consists of the name of the parties, their status in appeal in upper case letters, followed by that in first instance in lower case letters.

An intervener in first instance is designated as APPELLANT, RESPONDENT or IMPEADED PARTY, depending on the circumstances.

The status in appeal of a decision-maker contemplated by a judicial review appeal shall be designated as IMPEADED PARTY.

23. Heading. The heading contained on the backing and the first page of the pleading (*within a box if necessary*) shall indicate its date, the party filing it, its nature, and if it includes a demand, the precise provision on which it is based.

24. Amendment (Art. 206). Any amendment to a pleading shall be so identified (*in the margin, by underlining it or by indicating that it has been struck...*).

25. Notification (Art. 109). The parties shall notify their proceedings (*including briefs and memoranda*) to the appellant and to the other parties who have filed a representation statement by counsel (*or a non-representation statement*).

The appellant shall reproduce article 358 C.C.P., para. 2, as well as section 25, para. 1, above and section 30 of this Regulation on the backing of its notice of appeal.

VII Notice of Appeal (Art. 352 – 354)

26. Miscellaneous Requirements. In addition to the requirements of article 353 C.C.P., the appellant shall record a statement relating to confidentiality (*s. 8 above*) and mention the obligation to file a representation statement (*s. 25 above*) in the notice of appeal.

27. Grounds of Appeal (Art. 353). The appellant shall succinctly state the grounds of appeal (*in no more than 10 pages*).

28. Number of Copies. A copy of the notice of appeal (*with a copy of the judgment appealed from*) shall be filed at the Office of the Court (*Art. 353*).

Nevertheless, if an application for leave to appeal (*with all its supporting documents*) is attached to the notice (*Art. 357*), two complete copies of the whole shall be filed at the Office of the Court.

29. Proof of Notification (Art. 354 and 358). Within three working days following the expiry of the prescribed time limit, the appellant shall file in the Office of the Court one copy of the proof of notification of the notice to the respondent's counsel, the impleaded parties and two copies to the clerk of first instance.

The Clerk shall inform the clerk of the court of first instance of the file number in appeal as soon as it has been assigned.

30. Failure to File a Representation Statement (Art. 358). If a party fails to file a representation statement by counsel (or non-representation statement), it shall be precluded from filing any other pleading in the file.

The appeal shall be conducted in the absence of such party.

The Clerk is not obliged to notify any notice to such party.

If the statement is filed after the expiry of the time limit, the Clerk may accept the filing subject to conditions that the Clerk may determine.

31. *Notice of Incidental Appeal (Art. 359).* A notice of incidental appeal need not be accompanied by a copy of the trial judgment (*Art. 353, para. 1*). Nevertheless, a certificate relating to the transcription of depositions must accompany the notice (*Art. 353, para. 3*) within 15 days (*Art. 360, para. 2*).

VIII Dismissal of the Appeal and Suretyship (Art. 364 and following)

32. *Dismissal of Application (Art. 366).* An application to dismiss an appeal, with or without suretyship, may be dismissed on the face of the record; the Clerk shall advise the parties without delay (*Art. 387 and 335*) of the judgment rendered, which judgment terminates the suspension of the time limits for the preparation of the appeal record (*Art. 365, para 2*).

33. *Ex officio.* Before dismissing an appeal on its own initiative (*Art. 365*) or subjecting it to suretyship (*Art. 364*), the Court shall allow the appellant to present any submissions it may have, in writing or at a hearing.

34. *Lapsed Appeal and Foreclosure (Art. 376), Recourse (Art. 25 and 84).* The Court may relieve a party from its default resulting in the lapse of an appeal or its foreclosure from pleading.

IX Appeal Management (Art. 367)

35. *Request for Management (Art. 367)* A party desiring management of its appeal shall so inform the Clerk by letter as soon as possible (*Art. 367 in fine*).

36. *Leave to Appeal from a Judgment (Art. 357) that Terminates a Proceeding (Art. 30).* A judge who grants leave to appeal from a judgment that terminates a proceeding may manage the conduct of the appeal (*Art. 367 and 373*), save with respect to the establishment of a date of hearing.

37. *Leave to Appeal from a Judgment in the Course of a Proceeding (Art. 31).* A judge who grants leave to appeal from a judgment rendered in the course of proceedings shall establish the date and duration of hearing and establish a timetable for the filing of memoranda unless, for such purpose, the judge refers the matter to the Clerk (*Art. 368 and 374*).

38. *Interruption of the Prosecution of the Appeal.* A party who becomes aware of a circumstance (*discontinuance, Art. 213, transaction, Art. 217 and 220, bankruptcy*) that terminates the appeal or suspends its prosecution shall so inform the Clerk without delay.

39. *Remote Hearings (Art. 26).* A party who wishes to be heard by technological means (*videoconferences or otherwise*) without attending the courthouse shall so request the Clerk by letter. The judge presiding the hearing shall decide whether or not to grant the request.

Necessary Steps. The parties shall take the necessary steps for the hearing to be held in such manner.

Costs. The costs of a remote hearing by technological means shall be assumed by the party who made the request, and form part of the legal costs (*Art. 339*).

40. *Consolidation of Appeals.* The Clerk may ex officio join appeals.

X Briefs (Art. 370 – 376)

41. Content. The appellant's brief shall include its Argument and three schedules; that of the respondent includes its Argument, and if necessary elements in addition to those of the appellant's schedules.

42. Argument. Each Argument shall be divided into five parts:

- Part I (*Facts*): the appellant shall succinctly recite the facts. The respondent may comment and relate additional facts;
- Part II (*Issues in Dispute*): the appellant shall concisely enumerate the issues in dispute. The respondent may answer and state any other relevant issue;
- Part III (*Submissions*): each party shall develop its submissions, with specific reference to the content of the schedules;
- Part IV (*Conclusions*): each party shall state the precise conclusions it seeks;
- Part V (*Authorities*): each party shall prepare a list of authorities in the order in which they appear in the Argument, with a specific reference to the paragraph(s) at which they are cited.

43. Joint Statement (Art. 372, para. 2). If there is a joint statement, the appellant shall produce it at the beginning of Schedule III.

44. Number of Pages. The first four parts of the Argument may be no more than 30 pages.

45. Schedules. The appellant's brief shall consist of three schedules, which reproduce:

- Schedule I: the judgment under appeal (*including reasons*) and, in the case of judicial review or appeal, the impugned decision;
- Schedule II:
 - a) the notice of appeal (*Art. 352*), and, as the case may be, the application for leave to appeal (*Art. 357*) and the judgment granting leave;
 - b) the proceedings of the joined issue and the minutes of the hearing on the merits in first instance;
 - c) all applicable statutory provisions other than those in the *Civil Code of Québec* and the *Code of Civil Procedure*;
- Schedule III: all and only those exhibits and depositions necessary for the Court to decide the issues in dispute (*Art. 372, para. 1*).

46. Technological version. Schedule III may be filed in accessible format (*CD Rom, DVD-Rom, USB Key*), in which case only the excerpts (*whether concise or lengthy*) to which the Submissions refer, shall be reproduced on paper.

Each page of the technological version shall use the same pagination as on the paper version.

Following notification, the filing of the technological version in accessible format shall take place no more than five working days following the filing of the paper version.

47. Final requirements. On the last page of the brief, its author shall (*Art. 99, para. 3*):

- attest that the brief complies with the requirements of this Regulation;
- undertakes to make available to any other party, at no cost, the depositions in its possession in paper or technological format;
- indicate the time requested for oral argument, (*including appellant's reply*).

48. Incidental Appeal (*Art. 371*). The content of the brief of an incidental appellant shall contain two parts: the first, its reply to the principal appeal and the second, its submission as incidental appellant.

The content of the schedules to the incidental appeal shall be the same as that of the schedules of the principal appeal, without however reproducing those that are contained in the latter.

The title of this brief shall be: "Brief of respondent/incidental appellant".

49. Format (*Art. 370*). The brief shall comply with the following:

- (a) *Colour*: The cover page shall be yellow for the appellant, green for the respondent and gray for any other party;
- (b) *Cover Page*. The following shall be indicated on the cover page:
 - i) the record number in appeal;
 - ii) the court that rendered the judgment under appeal, the judicial district, the name of the judge, the date of the judgment and the number of the court record;
 - iii) the style of cause (*in accordance with section 22 above*);
 - iv) the title of the brief by reference to the status of the party in appeal in accordance with section 23 above;
 - v) the name of its author who signs the attestation and the latter's coordinates (*those of other counsel having been recorded on the second page*).
- (c) *Table of Contents*. The first volume of the brief shall contain a general table of contents at the front and each subsequent volume (*and that of the technological version*) shall contain a table for its contents;
- (d) *Pagination*. Page numbers of the brief shall be placed at the top of the page in the centre;
- (e) *Spacing, Typeface and Margins*. The text of the Argument shall have at least one and one half spaces between the lines (*except for quotations, which shall be single spaced and indented*). The typeface shall be 12 point Arial font with no more than 12 characters per 2.5 cm (*thereby excluding Times New Roman and Garamond font*). The margins shall be no less than 2.5 cm;

- (f) *Numbering of Paragraphs.* The paragraphs of the Argument shall be numbered;
- (g) *Printing.* The Argument and Schedule I shall be printed on the left hand side of the volume and recto verso for the other Schedules;
- (h) *Number of Pages.* Each volume shall be composed of a maximum of 225 sheets;
- (i) *Volumes.* Each volume shall be numbered on the cover page and its bottom edge, and make mention of the sequence of pages it contains;
- (j) *Exhibits.* All exhibits included in the schedules shall be legible, failing which they shall be accompanied by a transcription of the text, and be reproduced in the order of their numbering. Each exhibit shall be reproduced beginning on a new page that includes the exhibit number, its date and nature. Photocopies of photographs are permitted only if they are clear;
- (k) *Depositions.* Each deposition shall begin on a new page and mention in the title the surname of the witness (*in upper case letters*), followed by the witness' given name and place of residence (*in lower case letters*) as well as the following information in abbreviated form (*in parentheses*):
- the name of the party that called the witness;
 - the stage of the trial (*case in chief, defence, rebuttal*) or at a pre-trial stage;
 - the stage of the examination (*examination in chief, cross-examination, re-examination*).
- The title of the pages that follow restates the name of the witness and the information in abbreviated form.
- (l) *Four in One Format.* Depositions may be reproduced in paper copy format of four pages in one using an Arial 10 font or its equivalent. The four pages shall contain a maximum of 25 lines, numbered on the left hand side of the page, and be in vertical sequence. The page itself shall have only one title (*corresponding to the commencement of the text*).

50. *Copies and Notification.* Seven copies in paper copy format and by electronic means (*if available*) shall be filed at the Office of the Court.

The parties shall be notified (*Art. 373*) by the delivery to them of two copies (*followed by the technological version if applicable*). The proof of notification within the stipulated time limit shall be filed at the Office of the Court no later than three working days after the expiry of such time limit.

51. *Non-compliance.* If a brief does not comply with the foregoing requirements, the Clerk shall advise its author of the elements requiring correction and establish a time limit within which a corrected brief may be filed. The Clerk shall so advise the other parties accordingly.

Failing correction, the production of the brief shall be refused.

52. *Time Limit for Incidental Appeal (Art. 373)*. If the principal appeal ends before the filing of the appellant's brief, the incidental appellant's brief must be filed within the following three months.

XI Memoranda (Art. 374)

53. *Content*. The Argument shall consist of 10 pages. Its author shall attach all documents necessary for the adjudication of the appeal (*judgment under appeal, pleadings, exhibits, excerpts from depositions, etc.*).

54. *Number of Copies*. Five copies of the memorandum shall be filed.

55. *Format*. The memorandum shall include a title page, a table of contents and be paginated consecutively.

The provisions relating to briefs (*including the final requirements*) apply to memoranda with the necessary adaptations.

XII Books of Authorities

56. *The Book of Authorities*. Each party may produce a book of authorities (*statutory provisions, jurisprudence and doctrine*), printed recto verso and separated by tabs; the excerpts relied upon shall be identified (*by a marginal line, underlining or highlighting*).

The text of judgments of the Supreme Court of Canada must be that which is published in its reports (*or prior to such publication, that which is available*).

The texts of authorities may be limited to relevant excerpts (*along with the preceding and succeeding page*) together with the headnote of the judgment (*if available*).

If a technological version of the book of authorities is produced in an accessible format (*by an appeal management decision or as a complement to a paper copy version*), the texts shall be PDF accessible where possible, and key-word searches must be possible.

57. *Excluded judgments*. The Court shall publish a list of judgments that the parties must exclude from their book of authorities.

58. *Filing*. Four copies of the book of authorities (*in one or more volumes*) shall be filed for a panel and only one copy for a judge or clerk. The book of authorities shall be notified and filed at the Office of the Court at least 30 days before the hearing of an appeal and as soon as possible prior to the hearing of an application.

The late filing of a book of authorities shall entail the refusal to grant the applicable costs.

XIII Applications in the Course of a Proceeding (Art. 377 – 380)

59. *Application (A written proceeding presenting a legal claim directly to a court)*. An application in the course of a proceeding shall be made by a proceeding of no more than 10 pages, attached to which there shall be an affidavit (*Art. 101, para. 3 and 106, para. 1*). Four copies of an application shall be produced when presented to the Court; two copies shall be filed when presented to a judge or the Clerk.

60. Attached Documents. The applicant shall attach one copy of each document necessary for the adjudication of the application (*notice of appeal, judgment under appeal including reasons, pleadings, exhibits, depositions, statutes and regulations...*).

61. Dates of Presentation. The Clerk shall publish the calendar of hearing dates for applications before the Court, a judge or the Clerk. The notice of presentation must specify, in addition to the date and time, the courtroom in which the application will be presented.

Reservation. The applicant must reserve a date from the Clerk for the presentation of an application before the Court.

62. Time of Presentation. An application to the Court or a judge is made presentable at 9:30am, and that to the Clerk at 9:00am. The Clerk may change the time at which the application is presented.

63. Time Limits (Art. 377). The time limit for the notification and filing of an application shall be computed in working days, excluding Saturdays.

64. Incomplete or Irregular Application. The Clerk shall notify the applicant if the application is incomplete. If the applicant does not remedy the default within the prescribed time limit prior to its presentation (*30 days (Art. 365), five or two days (Art. 377)*), the Clerk shall continue the application to a later date and so advises the parties.

Before the hearing, a presiding judge may strike from the roll an application if, on its face, it does not substantially comply with the requirements established by law. The Clerk shall so inform the applicant and the other parties of such a decision without delay.

65. Adjournment on Consent. The parties may only adjourn an application once by agreement. The applicant shall so inform the Clerk as soon as possible, or if the application seeks the dismissal of the appeal, at least 10 days prior to its presentation (*Art. 365*).

66. Request for Adjournment. A party seeking an adjournment shall so inform the judge presiding the panel, the judge or the Clerk who, as soon as possible, shall decide whether to grant or dismiss it, or postpone the decision until the beginning of the hearing.

67. Excusal of Attendance. A party who declares in writing that an application will not be contested is excused from attendance at the hearing, unless advised otherwise by the Clerk.

XIV Settlement Conference (Art. 381)

68. Form to be completed. The parties shall complete the form published on the Court's web site in order to request that a settlement conference be held.

The filing of the completed form suspends the time limits of the appeal.

The judge responsible for conferences shall establish the date on which it will be held with the parties.

69. Confidentiality of Documents (Art. 382). The parties shall transmit all relevant documents that do not form part of the record of the appeal to the judge responsible for conferences.

The commencement and termination of the suspension of time limits shall be noted in the computerized register (*Art. 381, para. 2*).

XV *Rolls of Hearing (Art. 383 and 384)*

70. *General Roll.* The Clerk shall inscribe on the general roll appeals proceeding with briefs and those proceeding with memoranda not heard by preference (*Art. 383*). The Clerk so advises the parties.

71. *Weekly Rolls.* The Clerk shall prepare weekly rolls of hearing, observing to the extent possible the order in which cases are inscribed on the roll, subject to the preferences prescribed by law (*Art. 383, para. 2*) or that are granted by an order.

The Clerk shall mention the time allotted to each party, including that of a reply (*Art. 385*).

72. *Preferences Prescribed by Law.* The Clerk shall publish the preferences prescribed by law on the Court's web site.

73. *Priorities by Order (Art. 68).* The Chief Justice may, ex officio or pursuant to an application, order that an appeal be heard by preference. Such application shall be presented on the date and time determined with the Clerk. It shall be notified to the parties and filed at the Office of the Court at least two working days before its presentation.

74. *Appeals Proceeding with Memoranda (Art. 368).* Appeals proceeding with memoranda, which are heard by preference unless otherwise provided, shall be inscribed directly on a weekly roll.

75. *Notice of Hearing (Art. 385).* The Clerk shall notify counsel (and unrepresented parties) of the date of hearing of the appeal by sending them the weekly roll of hearing at least 30 days in advance. The roll shall also be posted at the Office of the Court and published on the Court's web site.

XVI *Hearings of the Court (Art. 385)*

76. *Order of Hearing.* The hearings of the Court begin at 9:30am. The Clerk may convene the parties at a different time for the hearing of their appeal. Appeals are heard in the sequence they appear on the roll. An appeal may be heard in the absence of a party.

77. *Pleading.* The pleading of a party may be split and exceptionally be made by two counsel, however, only one counsel may reply for an appellant.

78. *Outline of Pleading.* At the beginning of a hearing, a party may produce an outline not exceeding two pages, and may attach to it (*with tabs*) excerpts from its brief and the authorities to which it intends to refer.

79. *Recording.* The digital recording of oral argument shall be available upon payment of the applicable fee; that of a judgment must be authorized (*the form for which is available at the Office of the Court*).

XVII *Legal Costs (Art. 387 and 339)*

80. *Taxation (Art. 344).* The Clerk who taxes the bill of costs must ensure that any disbursements not subject to the tariff are reasonable.

XVIII Scope of this Regulation

81. Exemption. The Clerk may excuse a party from compliance with a provision of this Regulation if the circumstances so justify. In such cases the Clerk shall advise the other parties accordingly.

82. Closure of an Inactive File. If a file has been inactive for more than one year, the Clerk may, after giving the parties an opportunity to be heard, declare the file closed and transfer it to the archives.

Upon application, a judge may determine the conditions for its reactivation (*Art. 18*).

83. Clerk's Practice Direction. The Clerk may publish a practice direction to explain or render this Regulation or a practice before the Court more precise.

84. Notice of Amendment. The Chief Justice may inform counsel of a proposed amendment to a provision of this Regulation and invite them to apply it immediately as if it were in force.

XIX Coming into Force (Art. 833)

85. This Regulation replaces the "Rules of Practice of the Court of Appeal of Quebec in Civil Matters" (CQLR, c. C-25, r. 14).

It comes into force upon the coming into force of the *Code of Civil Procedure* (CQLR, c. C-25.01).

December 10, 2015