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chapter C-25.01

CODE OF CIVIL PROCEDURE

PRELIMINARY PROVISION

This Code establishes the principles of civil justice and, together with the Civil Code and in harmony with the Charter of the French language (chapter C-11), the Charter of human rights and freedoms (chapter C-12) and the general principles of law, governs procedure applicable to private dispute prevention and resolution processes when not otherwise determined by the parties, procedure before the courts as well as procedure for the execution of judgments and for judicial sales.

This Code is designed to provide, in the public interest, means to prevent and resolve disputes and avoid litigation through appropriate, efficient and fair-minded processes that encourage the persons involved to play an active role. It is also designed to ensure the accessibility, quality and promptness of civil justice, the fair, simple, proportionate and economical application of procedural rules, the exercise of the parties' rights in a spirit of co-operation and balance, and respect for those involved in the administration of justice.

This Code must be interpreted and applied as a whole, in keeping with civil law tradition. The rules it sets out are to be interpreted in the light of the specific provisions it contains or of those of the law, and in the matters it deals with, the Code compensates for the silence of the other laws if the context so admits.

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2014, c. 1, pream.; I.N. 2016-12-01; 2022, c. 14, s. 142.

TABLE OF CONTENTS

BOOK I

GENERAL FRAMEWORK OF CIVIL PROCEDURE

TITLE I

PRINCIPLES OF PROCEDURE APPLICABLE TO PRIVATE DISPUTE PREVENTION AND RESOLUTION PROCESSES

1. To prevent a potential dispute or resolve an existing one, the parties concerned, by mutual agreement, may opt for a private dispute prevention and resolution process.

The main private dispute prevention and resolution processes are negotiation between the parties, and mediation and arbitration, in which the parties call on a third person to assist them. The parties may also resort to any other process that suits them and that they consider appropriate, whether or not it borrows from negotiation, mediation or arbitration.

Parties must consider private prevention and resolution processes before referring their dispute to the courts.

2014, c. 1, a. 1.

2. Parties who enter into a private dispute prevention and resolution process do so voluntarily. They are required to participate in the process in good faith, to be transparent with each other, including as regards the information in their possession, and to co-operate actively in searching for a solution and, if applicable, in preparing and implementing a pre-court protocol; they are also required to share the costs of the process.

They must, as must any third person assisting them, ensure that any steps they take are proportionate, in terms of the cost and time involved, to the nature and complexity of the dispute.

In addition, they are required, in any steps they take and agreements they make, to uphold human rights and freedoms and observe other public order rules.

2014, c. 1, a. 2.

3. The third person called upon by the parties to assist them in the process they have opted for or to decide their dispute must be chosen by them jointly.

The third person must be capable of acting impartially and diligently and in accordance with the requirements of good faith. If acting on a volunteer basis or for an unselfish motive, the third person incurs no liability other than that incurred through an intentional or gross fault.

2014, c. 1, a. 3; I.N. 2016-12-01.

4. Parties who opt for a private dispute prevention and resolution process and the third person assisting them undertake to preserve the confidentiality of anything said, written or done during the process, subject to any agreement between them on the matter or to any special provisions of the law.

In that regard, the parties may agree to file in the court record the content of a pre-court protocol and the evidence exchanged between the parties to prepare and implement the protocol.

2014, c. 1, a. 4; 2023, c. 3, s. 1.

5. The third person called upon to assist the parties may provide information for research, teaching or statistical purposes or in connection with a general evaluation of the dispute prevention and resolution process

or its results without it being a breach of the person's duty of confidentiality, provided no personal information is revealed.

2014, c. 1, a. 5.

6. Parties who agree to resort to a private dispute prevention and resolution process, together with the third person involved in the process, if any, determine the procedure applicable to the process they have selected. If the parties have opted for mediation or arbitration or a similar process and the procedure they have determined must be supplemented, the rules of Book VII apply.

2014, c. 1, a. 6.

7. Participation in a private dispute prevention and resolution process other than arbitration does not entail a waiver of the right to act before the courts. However, the parties may undertake not to exercise that right in connection with the dispute in the course of the process, unless it proves necessary for the preservation of their rights.

They may also agree to waive prescription already acquired and the benefit of time elapsed for prescription purposes or agree, in a signed document, to suspend prescription for the duration of the process. Prescription cannot, however, be suspended for more than six months.

If the parties exercise their right to act before the courts, the application then instituted in any matter other than a family matter is tried by preference provided it is accompanied by a certificate issued by a certified mediator or a body offering mediation in civil matters, and confirming that the parties resorted to a private dispute prevention and resolution process, or by evidence that the parties agreed to a pre-court protocol.

In the same matters, the application of the party who files with the court office a certificate confirming that they have gone to an assistance organization for persons who are victims that is recognized by the Minister of Justice for help as a person who is a victim of domestic or sexual violence on the part of the other party is also tried by preference. That certificate is confidential.

The Minister determines, by regulation, the conditions to be met by a body which may issue a certificate attesting participation in a private dispute prevention and resolution process as well as the other cases where the application of a person who is a victim may be tried by preference and the applicable terms and conditions.

2014, c. 1, a. 7; 2023, c. 3, s. 2.

TITLE II

PRINCIPLES OF PROCEDURE APPLICABLE BEFORE THE COURTS

8. Public civil justice is administered by the courts under the legislative authority of Québec. The Court of Appeal, the Superior Court and the Court of Québec exercise their jurisdiction throughout the territory of Québec.

Municipal courts exercise civil jurisdiction in the matters assigned to them by special Acts, but only within the territory specified by those Acts and by their constituting instruments.

The Supreme Court of Canada, the Federal Court of Appeal and the Federal Court of Canada have jurisdiction in some civil matters in Québec, as provided for in the Acts of the Parliament of Canada.

2014, c. 1, a. 8.

CHAPTER I

MISSION OF THE COURTS

9. It is the mission of the courts to adjudicate the disputes brought before them, in accordance with the applicable rules of law. It is also their mission to make a ruling, even in the absence of a dispute, whenever the law requires that an application be brought before the court because of the nature of the case or the capacity of the persons concerned.

That mission includes ensuring proper case management in keeping with the principles and objectives of procedure. It further includes, both in first instance and in appeal, facilitating conciliation whenever the law so requires, the parties request it or consent to it or circumstances permit, or if a settlement conference is held.

The courts and judges enjoy judicial immunity. Judges must be impartial and, in their decisions, they must have regard to the best interests of justice.

2014, c. 1, a. 9.

10. The courts cannot seize themselves of a matter; it is up to the parties to commence a proceeding and determine its subject matter.

The courts cannot adjudicate beyond what is sought by the parties. If necessary, they may correct any improper term in the conclusions set out in a written pleading in order to give them their proper characterization in light of the allegations in the pleading.

The courts are not required to decide theoretical questions or to adjudicate where a judgment would not put an end to the uncertainty or the controversy, but they cannot refuse to adjudicate under the pretext that the law is silent, obscure or insufficient.

2014, c. 1, a. 10.

CHAPTER II

PUBLIC NATURE OF PROCEDURE BEFORE THE COURTS

11. Civil justice administered by the courts is public. Anyone may attend court hearings wherever they are held, and have access to court records and entries in the registers of the courts.

An exception to this principle applies if the law provides for in camera proceedings or restricts access to the court records or to certain documents filed in a court record.

Exceptions to the principle of open proceedings set out in this chapter apply despite section 23 of the Charter of human rights and freedoms (chapter C-12).

2014, c. 1, a. 11.

12. The court may make an exception to the principle of open proceedings if, in its opinion, public order, in particular the preservation of the dignity of the persons involved or the protection of substantial and legitimate interests, requires that the hearing be held in camera, that access to a document or the disclosure or circulation of information or documents specified by the court be prohibited or restricted, or that the anonymity of the persons involved be protected.

2014, c. 1, a. 12.

13. Lawyers, notaries, their articling students, and journalists who show proof of their status may attend a hearing held in camera; if the hearing concerns a person's personal integrity or capacity, anyone the person considers capable of assisting or reassuring the person, as well as any other person the court considers capable

of doing so, may also attend. However, if circumstances so require, the court may exclude such persons to prevent serious prejudice to a person whose interests may be affected by the application or by the proceeding.

Persons whose presence is, in the court's opinion, required in the interests of justice may also attend.

2014, c. 1, a. 13; 2020, c. 29, s. 8.

14. Persons present at a court hearing must conduct themselves in a respectful and restrained manner. Only those who prove their status as journalists may make a sound recording of the proceedings and the decision, unless the court prohibits them from doing so. In no case may images be recorded or sound or image recordings be broadcast.

The parties and their representatives are duty-bound to exercise restraint throughout the proceeding out of respect for the judicial process.

All persons, even if they are not present in person at a hearing, must comply with those rules and obey the orders of the court and of the officers of justice under its authority, under pain of contempt of court.

2014, c. 1, a. 14; 2020, c. 29, s. 9.

15. In family matters, in matters regarding authorization for care or for the alienation of a body part, in matters regarding confinement in institution or in matters regarding a change of designation of sex as it appears in a minor child's act of birth, hearings of the court of first instance are held in camera; however, the court, in the interests of justice, may order that a hearing be public. Unless authorized by the court, no person attending a hearing nor any other person may disclose information that would allow the persons concerned to be identified, under pain of contempt of court.

Judgments in such matters may only be published if the anonymity of the parties and of any child whose interests are at stake in the proceeding is protected and the passages that would allow them to be identified have been deleted or redacted. However, the information necessary to ensure the publication of rights resulting from such judgments may be published in the land register or in the register of personal and movable real rights in accordance with the rules of the Civil Code.

2014, c. 1, a. 15; 2016, c. 19, s. 12; 2020, c. 29, s. 10; 2020, c. 17, s. 62.

16. In family matters, in matters regarding authorization for care or for the alienation of a body part, in matters regarding confinement in institution or in matters regarding a change of designation of sex as it appears in a minor child's act of birth, access to the court records is restricted. In all other matters, especially those relating to personal integrity or capacity, access to documents pertaining to a person's health or psychosocial situation is restricted if they have been filed in a sealed envelope.

Access-restricted records or documents may only be consulted or copied by the parties, by their representatives, by lawyers and notaries, by persons designated by law, and by any person, including journalists, who has been authorized by the court after proving a legitimate interest, subject to the access conditions and procedure determined by the court.

In adoption matters, access to the court records is restricted to the parties, their representatives and any person having proven a legitimate interest, and is subject to the authorization of the court and to the conditions and procedure it determines.

The Minister of Justice is considered, by virtue of office, to have a legitimate interest to access records or documents for research, reform or procedure evaluation purposes.

No person who has had access to a record in a family matter, in a matter regarding authorization for care or for the alienation of a body part, in a matter regarding confinement in institution or in a matter regarding a change of designation of sex as it appears in a minor child's act of birth may disclose or circulate any

information that would allow a party or a child whose interests are at stake in a proceeding to be identified, unless authorized by the court or by law or unless the disclosure or circulation of the information is necessary for the purpose of applying a law.

2014, c. 1, a. 16; 2016, c. 19, s. 13; 2017, c. 12, s. 40; 2020, c. 29, s. 11.

CHAPTER III

GUIDING PRINCIPLES OF PROCEDURE

17. The court cannot rule on an application, or take a measure on its own initiative, which affects the rights of a party unless the party has been heard or duly called.

In any contentious matter, the court, even on its own initiative, must uphold the adversarial principle and see that it is adhered to until the judgment and during execution of the judgment. It cannot base its decision on grounds the parties have not had the opportunity to debate.

2014, c. 1, a. 17; I.N. 2016-12-01.

18. The parties to a proceeding must observe the principle of proportionality and ensure that their actions, their pleadings, including their choice of an oral or a written defence, and the means of proof they use are proportionate, in terms of the cost and time involved, to the nature and complexity of the matter and the purpose of the application.

Judges must likewise observe the principle of proportionality in managing the proceedings they are assigned, regardless of the stage at which they intervene. They must ensure that the measures and acts they order or authorize are in keeping with the same principle, while having regard to the proper administration of justice.

2014, c. 1, a. 18.

19. Subject to the duty of the courts to ensure proper case management and the orderly conduct of proceedings, the parties control the course of their case insofar as they comply with the principles, objectives and rules of procedure and the prescribed time limits.

They must be careful to confine the case to what is necessary to resolve the dispute, and must refrain from acting with the intent to cause prejudice to another person or behaving in an excessive or unreasonable manner, contrary to the requirements of good faith.

They may, at any stage of the proceeding, without necessarily stopping its progress, agree to settle their dispute through a private dispute prevention and resolution process or judicial conciliation; they may also otherwise terminate the proceeding at any time.

2014, c. 1, a. 19; I.N. 2016-12-01.

20. The parties are duty-bound to co-operate and, in particular, to keep one another informed at all times of the facts and particulars conducive to a fair debate and make sure that relevant evidence is preserved.

They must, among other things, at the time prescribed by this Code or determined in the case protocol, inform one another of the facts on which their contentions are based and of the evidence they intend to produce.

2014, c. 1, a. 20.

21. A person who is called as a witness is duty-bound to appear, testify and tell the truth.

Witnesses have the right to be informed, by the calling party, of the reason they have been called, of the subject matter of the testimony and of the conduct of the proceeding. They also have the right to be informed without delay that their presence is no longer required.

2014, c. 1, a. 21; I.N. 2016-12-01.

22. The mission of an expert whose services have been retained by a single party or by the parties jointly or who has been appointed by the court, whether the matter is contentious or not, is to enlighten the court. This mission overrides the parties' interests.

Experts must fulfill their mission objectively, impartially and thoroughly.

2014, c. 1, a. 22.

23. Natural persons may self-represent before the courts, but must comply with the procedure established by this Code and the regulations under this Code.

2014, c. 1, a. 23.

24. The taking of an oath is a solemn undertaking to tell the truth or to exercise a function impartially and competently.

In addition to cases in which an oath is required by law, an oath may be required by the court whenever it considers it necessary in the interests of justice. The oath must be taken before a judge, a court clerk or any other person legally authorized to administer oaths.

2014, c. 1, a. 24.

CHAPTER IV

RULES OF INTERPRETATION AND APPLICATION OF THIS CODE

25. The rules of this Code are designed to facilitate the resolution of disputes and to bring out the substantive law and ensure that it is carried out.

Failure to observe a rule that is not a public order rule does not prevent an application from being decided provided the failure is remedied in a timely manner; likewise, if no specific procedure is provided for exercising a right, any mode of proceeding may be used that is not inconsistent with the rules of this Code.

2014, c. 1, a. 25.

26. In applying this Code, appropriate technological means that are available to both the parties and the court should be used whenever possible, taking into account the technological environment in place to support the business of the courts.

The court, may use such means or, if the interests of justice so require, order that such means be used by the parties, even on its own initiative, including for case management purposes, for holding hearings or for sending and receiving documents in a medium other than paper; if it considers it necessary, the court may also, despite an agreement between the parties, require a person to appear in person at a hearing, a conference or an examination.

2014, c. 1, a. 26; 2020, c. 29, s. 12.

27. In a state of emergency declared by the Government or in a situation where it is impossible in fact to comply with the rules of this Code or to use a means of communication, the Chief Justice of Québec and the Minister of Justice may jointly suspend or extend a prescription or procedural period for a specified time, or authorize the use of another means of communication in the manner they specify.

Their decision takes effect immediately, and must be published without delay in the *Gazette officielle du Québec*.

2014, c. 1, a. 27.

28. After considering the effects of the project on the rights of individuals and obtaining the agreement of the Chief Justice of Québec or the Chief Justice of the Superior Court or the Chief Judge of the Court of Québec, according to their jurisdiction, and after consulting the Barreau du Québec and, if applicable, the Chambre des notaires du Québec or the Chambre des huissiers de justice du Québec, the Minister of Justice, by regulation, may modify a rule of procedure, or introduce a new one, for a specified time not exceeding three years, for the purposes of a pilot project conducted in specified judicial districts.

2014, c. 1, a. 28.

TITLE III

JURISDICTION OF COURTS

CHAPTER I

SUBJECT-MATTER JURISDICTION OF COURTS

DIVISION I

JURISDICTION OF COURT OF APPEAL

29. The Court of Appeal is the general appellate court in charge of hearing appeals against appealable judgments of other courts, unless a provision specifies that an appeal is to be made before another court.

2014, c. 1, a. 29.

30. Judgments of the Superior Court and the Court of Québec that terminate a proceeding, and judgments or orders that pertain to personal integrity, status or capacity, the special rights of the State or contempt of court, may be appealed as of right.

The following, however, may be appealed only with leave:

(1) judgments where the value of the subject matter of the dispute in appeal is less than $60,000;

(2) judgments rendered according to the procedure for non-contentious proceedings and not appealable as of right;

(3) judgments dismissing a judicial application because of its abusive nature;

(4) judgments denying an application for forced or voluntary intervention of a third person;

(5) judicial review judgments of the Superior Court relating to the evocation of a case pending before a court or to a decision made by a person or body or a judgment rendered by a court that is subject to judicial review by the Superior Court, or relating to a remedy commanding the performance of an act;

(6) judgments ruling on legal costs awarded to punish a substantial breach;

(7) judgments confirming or quashing a seizure before judgment;

(8) judgments ruling on execution matters.

Leave to appeal is granted by a judge of the Court of Appeal if that judge considers that the matter at issue is one that should be submitted to that Court, for example because it involves a question of principle, a new issue or an issue of law that has given rise to conflicting judicial decisions.

If it is necessary to calculate the value of the subject matter of the dispute in appeal, account must be taken of interest already accrued on the date of the judgment in first instance and of the additional indemnity mentioned in article 1619 of the Civil Code. Legal costs are disregarded. If the subject matter of the appeal is the right to additional damages for bodily injury, only the amount of those damages is to be taken into account.

2014, c. 1, a. 30; I.N. 2016-12-01.

31. A judgment of the Superior Court or the Court of Québec rendered in the course of a proceeding, including during a trial, is appealable as of right if it disallows an objection to evidence based on the duty of discretion of public servants, on professional secrecy or on the protection of the confidentiality of a journalistic source.

Such a judgment may be appealed with leave of a judge of the Court of Appeal if the judge considers that it determines part of the dispute or causes irremediable injury to a party, including if it allows an objection to evidence.

The judgment must be appealed without delay. The appeal does not stay the proceeding unless a judge of the Court of Appeal so orders. If the judgment was rendered in the course of the trial, the appeal does not stay the trial; however, judgment on the merits cannot be rendered nor, if applicable, the evidence concerned heard until the decision on the appeal is rendered.

Any other judgment rendered in the course of a trial, except one that allows an objection to evidence, may only be challenged on an appeal against the judgment on the merits.

2014, c. 1, a. 31; I.N. 2016-12-01; 2018, c. 26, s. 8.

32. Case management measures relating to the conduct of a proceeding and rulings on incidental applications concerning the continuance of a proceeding, the joinder or severance of proceedings, the stay of a trial, the splitting of a proceeding or pre-trial discovery cannot be appealed. However, if a measure or a ruling appears unreasonable in light of the guiding principles of procedure, a judge of the Court of Appeal may grant leave to appeal.

2014, c. 1, a. 32.

DIVISION II

JURISDICTION OF SUPERIOR COURT

33. The Superior Court is the court of original general jurisdiction. It has jurisdiction in first instance to hear and determine any application not formally and exclusively assigned by law to another court or to an adjudicative body.

It has exclusive jurisdiction to hear and determine class actions and applications for an injunction.

2014, c. 1, a. 33.

34. The Superior Court is vested with a general power of judicial review over all courts in Québec other than the Court of Appeal, over public bodies, over legal persons established in the public interest or for a private interest, and over partnerships and associations and other groups not endowed with juridical personality.

This power cannot be exercised in cases excluded by law or declared by law to be under the exclusive purview of those courts, persons, bodies or groups, except where there is lack or excess of jurisdiction.

A matter is brought before the Court by means of an application for judicial review.

2014, c. 1, a. 34; I.N. 2016-12-01.

DIVISION III

JURISDICTION OF COURT OF QUÉBEC

35. The Court of Québec has exclusive jurisdiction to hear and determine applications in which the value of the subject matter of the dispute or the amount claimed, including in lease resiliation matters, is less than $75,000 and concurrent jurisdiction with the Superior Court, at the plaintiff's option, where that value or amount is equal to or exceeds $75,000 but is less than $100,000, exclusive of interest; it also hears and determines applications ancillary to such an application, including those for the specific performance of a contractual obligation. However, it does not have either one of those jurisdictions in cases where jurisdiction is formally and exclusively assigned to another court or adjudicative body, or in family matters other than adoption. The plaintiff's option continues to prevail if the chosen court retains jurisdiction under the second paragraph.

An application brought before the Court of Québec is no longer within the jurisdiction of that Court if a cross-application is made for an amount or value equal to or exceeding $100,000, or if an amendment to the application increases the amount claimed or the value of the subject matter of the dispute to $100,000 or more. Conversely, the Court of Québec alone becomes competent to hear and determine an application brought before the Superior Court if the amount claimed or the value of the subject matter of the dispute falls below $75,000. The record is transferred to the competent court if all parties agree or if the court so orders on its own initiative or on a party's request.

If two or more plaintiffs join together or are represented by the same person in the same judicial application, the Court of Québec has jurisdiction if it would be competent to hear and determine each plaintiff's application.

The monetary limit for the Court of Québec's exclusive jurisdiction is increased by $5,000 on 1 September of the calendar year following the calendar year in which the total amount resulting from annual adjustment of the indexed limit amount on the basis of the Consumer Price Index for Québec, determined by Statistics Canada, since the last increase is equal to or exceeds $5,000. A notice stating the monetary jurisdiction limit of the Court resulting from that calculation is published in the *Gazette officielle du Québec* by the Minister of Justice not later than 1 August of the year in which the new limit comes into force. Judicial applications introduced before 1 September of that year continue before the court seized. The same applies to the increase in the upper monetary limit for the Court of Québec's concurrent jurisdiction and to the annual adjustment of the upper limit amount.

2014, c. 1, a. 35; I.N. 2016-12-01; 2023, c. 3, ss. 3 and 43.

36. Subject to the jurisdiction assigned to the municipal courts, the Court of Québec has jurisdiction, to the exclusion of the Superior Court, to hear and determine applications for the recovery of property taxes, other taxes or any other amount due under an Act to a municipality, a school service centre or a school board, and applications by which the existence or amount of such a debt is contested.

The Court also has jurisdiction to hear and determine applications for the reimbursement of an overpayment to a municipality, a school service centre or a school board.

2014, c. 1, a. 36; 2020, c. 1, s. 180.

37. The Court of Québec has jurisdiction, to the exclusion of the Superior Court, to hear and determine applications in adoption matters.

In other youth matters, jurisdiction and procedure are determined by special Acts.

If an adoption or youth protection matter is already before the Court of Québec, it may rule on any related application concerning child custody, emancipation, the exercise of parental authority, suppletive tutorship or tutorship requested by the director of youth protection.

2014, c. 1, a. 37; 2017, c. 12, s. 41.

38. The Court of Québec has exclusive jurisdiction to hear and determine applications concerning a person's confinement in a health or social services institution for or after a psychiatric assessment without the person's consent.

2014, c. 1, a. 38.

39. The Court of Québec has exclusive jurisdiction to hear and determine applications relating to an arbitration insofar as it would be competent to rule on the subject matter of the dispute referred to the arbitrator, and to hear and determine applications for the recognition and enforcement of a decision rendered outside Québec in a matter within its jurisdiction.

2014, c. 1, a. 39.

CHAPTER II

TERRITORIAL JURISDICTION OF COURTS

DIVISION I

TERRITORIAL JURISDICTION—APPEAL

40. The Court of Appeal sitting at Montréal hears appeals against judgments rendered in the judicial districts of Beauharnois, Bedford, Drummond, Gatineau, Iberville, Joliette, Labelle, Laval, Longueuil, Mégantic, Montréal, Pontiac, Richelieu, Saint-François, Saint-Hyacinthe and Terrebonne. The Court of Appeal sitting at Québec hears appeals against judgments rendered in all other districts.

2014, c. 1, a. 40.

DIVISION II

TERRITORIAL JURISDICTION—FIRST INSTANCE

41. The court having territorial jurisdiction in Québec to hear a judicial application is the court of the domicile of the defendant, or of one of the defendants if there are two or more defendants domiciled in different districts.

If the defendant has no domicile in Québec, the court that has territorial jurisdiction is the court of the defendant's residence or, in the case of a legal person, the court of the place where the defendant has an establishment, or the court of the place where the defendant has property.

So far as public order permits, the court of the defendant's elected domicile, or the court designated by an agreement between the parties other than a contract adhesion, also has territorial jurisdiction.

2014, c. 1, a. 41; I.N. 2016-12-01.

42. At the plaintiff's option,

(1) an application for the performance of contractual obligations may also be brought before the court of the place where the contract was made;

(2) an application concerning extracontractual civil liability may also be brought before the court of the place where the injurious act or omission occurred or the court of any of the places where the injury was suffered; and

(3) an application whose subject matter is immovable property may also be brought before the court of the place where the property is wholly or partly situated.

2014, c. 1, a. 42.

43. If an application pertains to an employment contract or a consumer contract, the court having jurisdiction is the court of the domicile or residence of the employee or the consumer, whether that person is the plaintiff or the defendant.

If an application pertains to an insurance contract, the court having jurisdiction is the court of the domicile or residence of the insured, whether that person is the plaintiff or the defendant, or, as applicable, the court of the domicile or residence of the beneficiary under the contract. In the case of property insurance, the court of the place where the loss occurred also has jurisdiction.

If an application pertains to the exercise of a hypothecary right on an immovable serving as the debtor's main residence, the court having jurisdiction is the court of the place where the immovable is situated.

An agreement to the contrary is unenforceable against the employee, the consumer, the insured, the insurance contract beneficiary or the hypothecary debtor.

2014, c. 1, a. 43.

44. In matters relating to personal integrity, status or capacity, the court having jurisdiction is the court of the domicile or residence of the minor or person of full age concerned or, in the case of an absentee, of the absentee's representative.

An application concerning a person of full age who resides in a health or social services institution may also be brought before the court of the place where the institution is situated, the court of the person's former domicile or residence, or the court of the plaintiff's domicile.

If the person of full age under tutorship or under a protection mandate, the plaintiff or the representative no longer lives in the district where the judgment was rendered, an application for review of the judgment may be brought before the court of the domicile or residence of any of them.

2014, c. 1, a. 44; 2020, c. 11, s. 102.

45. In family matters, the court having jurisdiction is the court of the common domicile of the parties or, if they do not have a common domicile, the court of the domicile of one of the parties and, in cases of opposition to marriage or civil union, the court of the place of solemnization.

In adoption matters, the court having jurisdiction is the court of the domicile of the minor child or of the applicant or, if the parties consent, the court of the place under the responsibility of the director of youth protection who was last in charge of the child.

If the parties are no longer domiciled in the district where the judgment was rendered, an application for review of the judgment may be brought before the court of the domicile of one of the parties, but if one of them still lives in that district, the application may only be brought in another district with the consent of that party. Whenever a child is involved, the application may be brought before the court of the child's domicile.

2014, c. 1, a. 45.

46. In succession matters, the court having jurisdiction is the court of the place where the succession opened.

However, if the succession did not open in Québec, an application may be brought, at the plaintiff's option, before the court of the place where the property is situated, the court of the place where the death occurred or the court of the domicile of the defendant or one of the defendants.

The court of the domicile of the liquidator of the succession is also competent in respect of any application pertaining to the appointment of the liquidator or the exercise of the liquidator's functions.

2014, c. 1, a. 46.

47. Incidental applications, such as recourses in warranty and applications for additional damages for bodily injury, must be brought before the court before which the principal application was brought.

2014, c. 1, a. 47.

48. At any stage of a proceeding, the chief justice or chief judge may, by way of exception, order, even on their own initiative, that a case, a trial or an application relating to the execution of a judgment be transferred to another district in the interests of the parties or of the third persons concerned or if warranted on serious grounds.

2014, c. 1, a. 48.

CHAPTER III

POWERS OF COURTS

DIVISION I

GENERAL POWERS

49. The courts and judges, both in first instance and in appeal, have all the powers necessary to exercise their jurisdiction.

They may, at any time and in all matters, even on their own initiative, grant injunctions or issue protection orders or orders to safeguard the parties' rights for the period and subject to the conditions they determine. As well, they may make such orders as are appropriate to deal with situations for which no solution is provided by law.

2014, c. 1, a. 49; 2016, c. 12, s. 18.

50. When sitting in first instance in non-contentious cases or in cases in which a child's interests or a person's personal integrity, status or capacity are at issue, the courts, even on their own initiative, may require the attendance of a person or the presentation of evidence, and without formality hear persons who may enlighten them and, after calling them, persons whose interests may be affected by the decision.

2014, c. 1, a. 50; I.N. 2016-12-01.

DIVISION II

POWER TO IMPOSE SANCTIONS FOR ABUSE OF PROCEDURE

51. The courts may, at any time, on an application and even on their own initiative, declare that a judicial application or a pleading is abusive.

Regardless of intent, the abuse of procedure may consist in a judicial application or pleading that is clearly unfounded, frivolous or intended to delay or in conduct that is vexatious or quarrelsome. It may also consist in a use of procedure that is excessive or unreasonable or that causes prejudice to another person, or attempts to

defeat the ends of justice, particularly if it operates to restrict another person's freedom of expression in public debate.

2014, c. 1, a. 51.

51.1. In family matters, the court rules on the abuse, taking into account, among other things, the history of the proceedings involving the parties, the impact that their repeated and disputed nature may have on the other party and, if applicable, on the child, and whether there is an equal balance of power between the parties, in particular given incidents of family violence, which includes spousal violence.

2024, c. 22, s. 27.

52. If a party summarily establishes that a judicial application or pleading may constitute an abuse of procedure, the onus is on the initiator of the application or pleading to show that it is not excessive or unreasonable and is justified in law.

An application before the trial must be notified to the other parties and filed with the court office at least 10 days before the date of presentation and is defended orally. However, the court may, on the face of the record, deny the application based on the grounds that it has no reasonable chance of success or is abusive.

An application during the trial is presented and defended orally.

If the application is defended orally, it is decided by the court on the face of the pleadings and exhibits in the record and the transcripts of any pre-trial examinations. No other evidence is presented, unless the court considers it necessary.

An application for a court ruling on the abusive nature of a pleading in a family matter or on that of a pleading that operates to restrict another person's freedom of expression in public debate must, in first instance, be dealt with as a matter of priority.

2014, c. 1, a. 52; 2020, c. 29, s. 13; 2024, c. 22, s. 28.

53. If there has been an abuse of procedure, the court may dismiss the judicial application or reject a pleading, strike out a conclusion or require that it be amended, terminate or refuse to allow an examination, or cancel a subpoena.

If there has been or if there appears to have been an abuse of procedure, the court, if it considers it appropriate, may do one or more of the following:

(1) impose conditions on any further steps in the judicial application or on the pleading;

(2) require undertakings from the party concerned with respect to the orderly conduct of the proceeding;

(3) stay the proceeding for the period it determines;

(4) recommend that the chief justice or chief judge order special case management; or

(5) order the party that initiated the judicial application or presented the pleading to pay the other party, under pain of dismissal of the application or rejection of the pleading, a provision for costs, if the circumstances so warrant and if the court notes that, without such assistance, that other party's financial situation would likely prevent it from effectively conducting its case.

2014, c. 1, a. 53.

54. On ruling on whether a judicial application or pleading, including one presented under this division, is abusive, the court may order a provision for costs to be reimbursed, order a party to pay, in addition to legal

costs, damages for any injury suffered by another party, including to cover the professional fees and disbursements incurred by that other party, or award punitive damages if warranted by the circumstances.

In family matters, in addition to any other order that it may issue under the first paragraph, the court, when declaring that an application or a pleading is abusive, orders the party that initiated the application or pleading to pay damages to cover the professional fees and disbursements incurred by the other party.

If the amount of the damages is not admitted or cannot be easily calculated at the time the application or pleading is declared abusive, the court may summarily determine the amount within the time and subject to the conditions it specifies or, in the case of the Court of Appeal, refer the matter back to the court of first instance for a decision.

2014, c. 1, a. 54; 2024, c. 22, s. 29.

55. If an abuse of procedure results from a party's quarrelsomeness, the court may, in addition to other measures, prohibit the party from instituting a judicial application or presenting a pleading in an ongoing proceeding except with the authorization of and subject to the conditions determined by the chief justice or the chief judge.

2014, c. 1, a. 55.

56. If a legal person is responsible for an abuse of procedure, those of its directors and officers who participated in the decision may be ordered personally to pay damages. The same holds for an administrator of the property of others who is responsible for such an abuse.

2014, c. 1, a. 56.

DIVISION III

POWER TO PUNISH FOR CONTEMPT OF COURT

57. The courts may punish the conduct of any person who is guilty of contempt of court, whether committed in or outside the presence of the court. In the case of contempt of the Court of Appeal committed outside the presence of the Court, the matter is brought before the Superior Court.

A transaction or any other act that puts an end to a dispute cannot be invoked against the court in a matter of contempt.

2014, c. 1, a. 57.

58. A person who disobeys a court order or injunction or acts in such a way as to interfere with the orderly administration of justice or undermine the authority or dignity of the court is guilty of contempt of court.

A person not named in an injunction or protection order who disobeys that injunction or protection order is guilty of contempt of court only if the person does so knowingly.

2014, c. 1, a. 58; 2016, c. 12, a. 19.

59. A person charged with contempt of court must be summoned, by an order of the court, to appear on the day and at the time specified to hear proof of the acts held against the person and to raise grounds of defence.

2014, c. 1, a. 59.

60. The order to appear is issued on the court's own initiative or on an application presented before the court, which does not require notification.

The order must be served personally; however, if circumstances do not permit personal service, the court may authorize another method of notification.

If the alleged contempt of court is committed in the presence of the court and must be ruled on without delay, the only requirement is that the person be first called upon to justify their behaviour.

2014, c. 1, a. 60.

61. The judge who is to rule on a contempt of court allegation must not be the judge before whom it was allegedly committed, unless the matter must be ruled on without delay. The person charged with contempt of court cannot be compelled to testify.

The proof submitted to establish contempt of court must be beyond a reasonable doubt.

If the judgment finds that contempt of court was committed, it must set out the facts on which the finding of contempt is based. The resulting sanction may be imposed in a subsequent judgment.

The time limit for appealing a finding of contempt runs as of the date of the notice of judgment imposing the sanction or the date of the judgment imposing the sanction if the judgment was rendered at the hearing.

2014, c. 1, a. 61; 2020, c. 29, s. 14.

62. The only sanctions that may be imposed for contempt of court are

(1) payment of a punitive amount not exceeding $10,000 for contempt committed by a natural person, or $100,000 for contempt committed by a legal person, a partnership or an association or another group not endowed with juridical personality, in which case the judgment is executed in accordance with Chapter XIII of the Code of Penal Procedure (chapter C-25.1); and

(2) performance, by the person or the person's officers, of compensatory community work the nature, terms and duration of which are determined by the court.

If the person refuses to comply with the court order or injunction, in addition to the sanction imposed, the court may order imprisonment for the term it specifies. The person so imprisoned must be summoned before the court periodically to explain themselves, and imprisonment may be ordered again until the person complies. Imprisonment can in no case exceed one year.

2014, c. 1, a. 62.

DIVISION IV

COURT REGULATIONS

63. A court may make regulations to regulate practice in that court or in any of its divisions and to ensure, in keeping with this Code, that the procedure established by this Code is properly complied with. Such regulations must be adopted by a majority of the judges of the court or, if special rules are needed for the district of Québec or Montréal, by a majority of the judges of that district.

If expedient, the chief justice or chief judge of the court, after consulting the judges concerned, may issue directives for one or more districts, as needed. Those directives, of a purely administrative nature, are the only ones applicable.

2014, c. 1, a. 63.

64. For the purpose of adopting regulations, the chief justice or chief judge of the court determines the most effective method of consultation so as to obtain the opinion of each of the judges concerned.

The chief justice or chief judge sends draft regulations to the Minister of Justice so that the latter may submit observations on any provisions having financial implications either for the State or for the parties to a proceeding.

After taking the Minister's observations into consideration, the chief justice or chief judge publishes draft regulations in the *Gazette officielle du Québec* at least 45 days before they are to be adopted, with a notice stating that comments are welcome and specifying where they should be sent. If required by the urgency of the situation, the chief justice or chief judge may shorten the publication period, giving reasons in the publication notice.

2014, c. 1, a. 64.

65. Regulations adopted by a court come into force 15 days after their publication in the *Gazette officielle du Québec* or on any later date specified in the regulations.

All such regulations, as well as any directives issued by the chief justice or chief judge, must be published so as to be easily accessible to the public, including through posting on the court's website.

2014, c. 1, a. 65.

CHAPTER IV

COURT OFFICES

66. Court offices provide clerical services to the court they serve, manage the information and documents required for the operation of the court and have custody of court registers, records, orders and judgments. They also manage the fees and costs prescribed by regulation and are responsible for the preservation of court records.

Court offices perform their functions in accordance with this Code, the regulations of the court, the directives of the chief justice or chief judge and those of the Deputy Minister of Justice, and within the technological environment in place to support the business of the courts.

2014, c. 1, a. 66.

67. Court clerks are in charge of the court office to which they are assigned and exercise the powers conferred on them by law. They may, with the consent of the Minister of Justice or a person designated by the latter, choose deputy court clerks, who are authorized to exercise those powers. Court clerks are assisted by the personnel needed to carry out their functions and run the court office. They may designate a person from among that personnel to perform, in their place or the deputy court clerks' place, acts that do not require the exercise of a jurisdictional or discretionary power.

In addition, the Minister, by order and with the consent of the chief justice or chief judge, may appoint special clerks to exercise, for the court, the adjudicative functions assigned to special clerks by law. Special clerks, by virtue of their office, may exercise the powers of court clerks.

2014, c. 1, a. 67.

CHAPTER V

POWERS OF COURTS, JUDGES AND COURT CLERKS

68. The jurisdiction and powers conferred on the Court of Appeal are exercised by the Court, its judges or the court clerk, as provided in this Code, particularly in Title IV of Book IV, which governs appeals.

The jurisdiction and powers conferred on the courts of first instance are also conferred on the judges appointed to those courts. The courts, when holding hearings, are vested with all the powers conferred by law on judges.

A measure which, under this Code, may be taken by the chief justice or chief judge may also, if warranted, be taken by the associate or assistant chief justice or chief judge, according to the division of responsibilities that prevails at the court, or by another judge designated by any of them.

2014, c. 1, a. 68.

69. In first instance, judges sit in court to hear and try an application.

Judges, in chambers or in another place serving as chambers, may meet parties to take case management measures and try and decide applications that require immediate intervention or do not require the presentation of evidence, such as incidental applications, applications proceeding by default, non-contentious applications, and applications relating to temporary injunctions, seizures before judgment or execution matters. In all such cases and in all cases where judges are permitted by law to exercise their powers in chambers or such other places, minutes of the meeting must be drawn up.

On their own initiative or on an application, judges may refer to the court any matter submitted to them in chambers or in another place serving as chambers.

2014, c. 1, a. 69.

70. Court clerks and special clerks only exercise the jurisdiction expressly assigned to them by law. In matters within their jurisdiction, they have the powers of the judges or the court.

If they consider that the interests of justice so require, they may refer any matter submitted to them to a judge or to the court.

2014, c. 1, a. 70.

71. If the judge is absent or unable to act and any delay could result in the loss of a right or cause serious prejudice, the court clerk may exercise the jurisdiction of the judge.

However, the court clerk cannot decide an incidental application, issue an order for police assistance or authorize a seizure before judgment unless no judge or special clerk is present in the district; nor may the court clerk decide an application for a stay unless it is impossible to reach a judge in another district or the on-call judge designated by the chief justice or chief judge.

In addition to applications expressly excluded from the jurisdiction of court clerks, the court clerk may in no case decide an application relating to personal integrity, status or capacity, authorize the seizure of property on a debtor's person or decide an application for judicial review or an application for an injunction.

2014, c. 1, a. 71.

72. The special clerk may rule on any application, contested or not, whose subject matter is the referral of the originating application to the court having territorial jurisdiction in a case described in article 43, security for costs, the calling of a witness, except in the cases described in article 497, the disclosure, production or rejection of exhibits, the examination or copying of an access-restricted document, or the physical, mental or psychosocial assessment of a person, the joinder of proceedings, amendments to pleadings or particulars to clarify pleadings or a substitution of lawyer and on any application for relief from default or to cease representing. In the course of a proceeding or of execution, the special clerk may rule on any pleading, but only with the parties' consent in the case of a contested pleading.

The special clerk may homologate any agreement between the parties that provides a complete settlement of a child custody or support matter and, in order to evaluate the agreement or assess the consent of the

parties, may convene the parties and hear them, even separately, in the presence of their lawyer. If the special clerk considers that the agreement does not sufficiently protect the children's interests or that consent was obtained under duress, the case is referred to a judge or to the court.

An agreement homologated by the special clerk has the same force and effect as a judgment.

Applications that are within the jurisdiction of the special clerk are presented directly to the special clerk and, unless contested, are decided on the face of the record.

2014, c. 1, a. 72; 2020, c. 12, s. 59.

73. In a non-contentious proceeding, the jurisdiction of the court may be exercised by the special clerk.

However, the special clerk cannot decide applications concerning personal integrity or status, absence or a judicial declaration of death or, in family matters, joint applications on a draft agreement; nor may the special clerk decide applications for the review of a decision of the registrar of civil status or relating to the publication of rights or the reconstitution of an authentic act or public register.

2014, c. 1, a. 73.

74. Decisions of the court clerk other than administrative decisions and decisions of the special clerk, except judgments rendered by default following the defendant's failure to answer the summons, attend the case management conference or defend on the merits, may, on an application, be reviewed by a judge in chambers or by the court. The same applies to decisions of the appellate clerk, which may be reviewed by an appellate judge.

The application for review must state the grounds on which it is based, be notified to the other parties and filed with the court office within 10 days after the date of the decision concerned. If the decision is quashed, matters are restored to their former state.

2014, c. 1, a. 74.

TITLE IV

SPECIAL RIGHTS OF STATE

75. The State and state bodies, in seeking to resolve a dispute with natural or legal persons, may, if they consider it advisable, resort to a private dispute prevention and resolution process before taking the matter before the courts.

They are, however, required to comply with government regulations on the subject and to resort to such a process only to the extent permitted by the public interest or the applicable legal standards.

2014, c. 1, a. 75.

76. In any civil, administrative, penal or criminal case, a person intending to question the operability, the constitutionality or the validity of a provision of an Act of the Parliament of Québec or the Parliament of Canada, of any regulation made under such an Act, of a government or ministerial order or of any other rule of law must give notice to the Attorney General of Québec.

Such notice is also required when a person seeks reparation from the State, a state body or a legal person established in the public interest for an infringement or denial of their fundamental rights and freedoms under the Charter of human rights and freedoms (chapter C-12) or the Canadian Charter of Rights and Freedoms (Part I of Schedule B to the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom).

Again, such notice is required when a person intends to raise, in a proceeding, the issue of the navigability or floatability of a lake or watercourse or the issue of the ownership of the bed or banks of a lake or watercourse.

No such application may be ruled on unless such notice has been validly given, and the court may only adjudicate with respect to the grounds set out in the notice.

2014, c. 1, a. 76.

77. To be validly given, the notice to the Attorney General of Québec must clearly state the contentions the person intends to assert and the grounds on which they are based, and be served on the Attorney General by a bailiff as soon as possible in the course of the proceeding but, in a civil matter, at least 30 days before the case is ready for trial and, in other matters, at least 30 days before the trial; in addition, the notice must be accompanied by all pleadings already filed in the record. The Attorney General becomes a party to the proceeding without further formality and may submit conclusions to the court, in which case the court must rule on them.

Only the Attorney General may waive the notice period.

The notice to the Attorney General must also be served on the Attorney General of Canada if the provision or rule of law concerned comes under federal jurisdiction; it must be notified to the Director of Criminal and Penal Prosecutions if the provision or rule of law concerned relates to a criminal or penal matter.

2014, c. 1, a. 77.

78. In criminal or penal matters, a notice to the Attorney General of Québec under the second paragraph of article 76 must be served at least 10 days before the date of the trial on the application for reparation. Failing that, the court orders service of the notice and postpones the hearing, unless the Attorney General waives the notice period or the court shortens it because, in its opinion, it is necessary to prevent irreparable prejudice to the initiator of the application or to a third person.

Such a notice is not required if the reparation sought relates to the disclosure or exclusion of evidence or to the period of time elapsed since the accusation, or in the cases determined by order of the Minister of Justice published in the *Gazette officielle du Québec*.

2014, c. 1, a. 78.

79. In a proceeding involving a public interest issue, the court, even on its own initiative, may order the parties to invite the Attorney General of Québec to intervene as a party.

The Attorney General, on the Attorney General's own initiative, may intervene as a party in a proceeding involving such an issue without notice or formality and without having to prove an interest. As well, the Attorney General, on the Attorney General's own initiative, may appeal any judgment on a public interest issue, whether or not the Attorney General was a party in the proceeding.

2014, c. 1, a. 79.

80. No measures to force execution are available with respect to a judgment against the Attorney General of Québec other than in accordance with the special rules for forced execution in real actions. If the judgment orders the payment of a sum of money, the Minister of Finance, on receiving the judgment once it has become final, pays the amount specified out of available appropriations or, failing that, out of the Consolidated Revenue Fund.

2014, c. 1, a. 80.

81. The courts cannot order a provisional measure or a sanction against, or exercise the power of judicial review over, the Government or a minister of the Government or any person, whether or not a public servant,

acting under their authority or on their instructions in a matter relating to the exercise of a function or the authority conferred on them by law. An exception to this rule may be made if it is shown to the court that there was a lack or excess of jurisdiction.

2014, c. 1, a. 81.

TITLE V

PROCEDURE APPLICABLE TO ALL JUDICIAL APPLICATIONS

CHAPTER I

SITTINGS OF COURTS AND TIME LIMITS

82. The courts do not sit on Saturdays or on holidays within the meaning of section 61 of the Interpretation Act (chapter I-16), nor do they sit on 26 December or 2 January, which are considered holidays for civil procedure purposes. In urgent cases, an application may be heard on a Saturday or a holiday by the on-call judge designated by the chief justice or chief judge.

In addition, courts of first instance are not required to sit between 30 June and 1 September, or between 20 December and 7 January. They are nevertheless required to hear cases relating to personal integrity, status or capacity or family matters, cases concerning a labour or leasing contract, cases brought under the Act respecting expropriation (chapter E-25), cases proceeding by default, incidental proceedings, proceedings concerning provisional measures or control measures, non-contentious applications and applications incidental to the execution of judgments. If they hold a trial on the merits during such a period, they must make sure, before setting the date, that the parties and their lawyers and their witnesses, if any, may attend without any major inconvenience to themselves or their families.

In all circumstances, habeas corpus applications, applications relating to personal integrity and applications identified as urgent by law or considered urgent by the chief justice or chief judge have priority, in that order, over any other.

2014, c. 1, a. 82; I.N. 2016-12-01; 2023, c. 27, s. 192.

83. A time limit fixed by this Code, set by the court or agreed by the parties for the performance of an act or of a formality runs as of the act, event, decision or notification that gives rise to the time limit.

A time limit is counted by whole day or, if applicable, by month. If the time limit is expressed in days, the day that marks the start is not counted but the terminal day is. If the time limit is expressed in months, it expires on the day, in the last month, that bears the same calendar number as the day of the act, event, decision or notification having given rise to the time limit; if there is no such calendar number in that month, the time limit expires on the last day of the month.

A time limit expires at 12 midnight on the last day; a time limit that would normally expire on a Saturday or a holiday is extended until the following working day.

2014, c. 1, a. 83.

84. A time limit described by this Code as a strict time limit cannot be extended unless the court is convinced that it was impossible in fact for the party concerned to act sooner. If the court considers it necessary, any other time limit may be extended or, in an urgent situation, shortened by the court. When the court extends a time limit, it may relieve a party from the consequences of failing to comply with the original time limit.

2014, c. 1, a. 84.

CHAPTER II

INTEREST REQUIRED TO BRING PROCEEDINGS

85. To bring a judicial application, a person must have a sufficient interest.

The interest of a plaintiff who intends to raise a public interest issue is assessed on the basis of whether the interest is genuine, whether the issue is a serious one that can be validly resolved by the court and whether there is no other effective way to bring the issue before the court.

2014, c. 1, a. 85.

CHAPTER III

REPRESENTATION BEFORE COURTS AND CAPACITY TO ACT

86. The right to act before the courts in order to represent a person before the courts is reserved to lawyers. However, notaries may do so in connection with any application that may be dealt with according to the procedure for non-contentious proceedings.

2014, c. 1, a. 86; 2023, c. 23, s. 8.

87. The following are required to be represented before the courts by a lawyer in contentious proceedings, and by a lawyer or a notary in non-contentious proceedings:

(1) representatives, mandataries, tutors and other persons acting on behalf of another person who, for serious reasons, cannot act on their own behalf;

(2) in a class action, the representative plaintiff or any person applying to act in that capacity;

(3) legal persons;

(4) general or limited partnerships and associations and other groups not endowed with juridical personality, unless all the partners or members act themselves or mandate one of their number to act;

(5) the Public Curator, guardians and sequestrators;

(6) liquidators, trustees and other representatives of collective interests when acting in that capacity;

(7) acquirers of accounts by onerous title, and collection agents.

2014, c. 1, a. 87; I.N. 2016-12-01; 2020, c. 11, s. 254.

88. Persons and groups may be represented by a mandatary other than a lawyer for the recovery of small claims under Title II of Book VI, in accordance with the rules of this Code.

Legal persons and groups may be represented by such a mandatary for the purpose of participating in the distribution of money derived from an execution measure.

2014, c. 1, a. 88.

89. Tutors and other representatives of persons who are unable to fully exercise their rights act in their own name and capacity. The same applies to administrators of the property of others as regards their administration, and to mandataries as regards the fulfillment of a protection mandate.

2014, c. 1, a. 89; 2020, c. 11, s. 254.

90. Whether in a contentious or non-contentious proceeding, the court, even on its own initiative, may order representation if the court considers it necessary to safeguard the rights and interests of a minor or those of a person of full age not represented by a tutor or a mandatary and considered incapable by the court.

2014, c. 1, a. 90; 2020, c. 11, s. 254.

91. Two or more persons who have a common interest in a dispute may mandate one of them to act in a proceeding on their behalf. The mandate must be mentioned in the originating application or in the defence.

The mandators are solidarily liable with the mandatary for the legal costs. The mandate is not affected by the death or change of status of any mandator, and cannot be revoked except with the authorization of the court.

2014, c. 1, a. 91.

92. An irregularity resulting from failure to be represented, assisted or authorized has no effect unless it is not remedied, and this may be done retroactively at any stage of a proceeding, even in appeal.

2014, c. 1, a. 92.

CHAPTER IV

DESIGNATION OF PARTIES

93. Parties are designated by their name and, when they are not acting in a personal capacity, by the capacity in which they are acting or, in the case of public office holders, by their official title if it is sufficient to identify them.

Legal persons and general or limited partnerships are designated by the name under which they were constituted or by which they identify themselves, and by their juridical form. Syndicates of co-owners and associations and other groups not endowed with juridical personality may be designated by the name by which they are generally known; if the name of a syndicate of co-owners is not known, it may be designated by the address of the immovable.

2014, c. 1, a. 93; I.N. 2016-12-01.

94. A party whose name is unknown or uncertain is sufficiently designated by a name that clearly identifies it.

If the subject matter of the application is a bill of exchange or other private writing, a party is sufficiently designated by the name or initials appearing on the writing.

2014, c. 1, a. 94.

95. If a party's domicile or residence must be stated, but is unknown, the party's last known residence is sufficient. In the case of a legal person, a partnership or an association or another group not endowed with juridical personality or an office holder, the principal establishment or any other known establishment or a professional or other business address may be stated instead of the domicile.

2014, c. 1, a. 95.

96. An application pertaining to the rights and obligations of the Government must be directed against the Attorney General of Québec.

An application pertaining to the rights and obligations of a public body or of a public officer or office holder who is called on to make changes to an act or a register must be directed against the body or person concerned.

2014, c. 1, a. 96.

97. An application pertaining to the rights and obligations of the heirs, legatees by particular title and successors of a deceased person must be directed against the liquidator of the succession. However, if the liquidator is unknown or cannot be identified in sufficient time, the heirs, legatees and successors may be collectively designated as a party, without specifying their names or residence.

Heirs and legatees by particular title of a person whose succession opened outside Québec who have not registered a declaration of transmission in accordance with article 2998 of the Civil Code may be sued and designated collectively in any immovable real action relating to the succession.

2014, c. 1, a. 97; I.N. 2016-12-01.

98. An application pertaining to certain and determinate property must describe the property in such a manner as to clearly distinguish it from other property.

An application pertaining to an immovable must designate the immovable in accordance with the book of the Civil Code governing the publication of rights.

2014, c. 1, a. 98.

CHAPTER V

PLEADINGS

DIVISION I

FORM AND CONTENT OF PLEADINGS

99. A pleading must specify its nature and purpose and state the facts on which it is based and the conclusions sought. It must also state anything which, if not alleged, could take another party by surprise or raise an unexpected debate. The statements it contains must be clear, precise and concise, presented in logical order and numbered consecutively.

A pleading must specify the court seized, the judicial district in which it is filed, the number of the record to which it relates, the names of the parties and its date. If the court office can receive pleadings in technological media, the pleading must be in one of the standardized formats determined by the Minister of Justice to ensure the proper operation of the court office.

The author of a pleading must be identified by means of the author's signature, or that which serves the purpose of a signature as provided in the Act to establish a legal framework for information technology (chapter C-1.1).

2014, c. 1, a. 99.

100. An originating application, whether in a contentious or non-contentious case, is filed with the court in writing by the plaintiff or, as applicable, by the plaintiff's lawyer or notary. In addition to the parties' names, it must state their domicile or residence, as applicable, and indicate, if applicable, in what capacity persons are party to the proceeding if otherwise than in their own name.

2014, c. 1, a. 100.

101. An application in the course of a proceeding may be in writing or presented orally and without formality at the hearing. If in writing, it must state the date, time and place it will be presented before the court, and must be notified to the other parties at least three days in advance. If presented orally, it must be submitted to the court in the presence of the other parties.

An application in the course of a proceeding may also be set out in a note, a letter or a notice if it concerns a case management measure, if the judge so requires or if the judge and the parties so agree. The note, letter or notice must clearly state the nature of the application and its subject matter, the number of the record to which it relates and any conclusions sought.

An application in the course of a proceeding that is grounded on facts not supported by evidence filed in the record must be supported by an affidavit of the person alleging the facts.

An application in the course of a proceeding can only be contested orally, unless written contestation is authorized by the court, in particular if the court is permitted to rule on the face of the record. During the hearing, any party may submit relevant evidence.

2014, c. 1, a. 101; I.N. 2016-12-01; 2020, c. 29, s. 15.

Note *See the Regulation to establish a pilot project relating to digital transformation of the administration of justice (chapter C-25.01, r. 6.2).*

102. When replying to a pleading, a party must admit the allegations that it knows to be true and deny those that it does not admit, giving reasons for the denial, or state that it is unaware of the fact. To evoke an alleged fact, it is sufficient to refer to the paragraph in which it is stated.

Silence with respect to an alleged fact is not an admission of that fact.

2014, c. 1, a. 102.

103. In their pleadings, lawyers, notaries and bailiffs must designate themselves by their name, the name of their partnership or the name by which they are known. They must also state their professional address and give the name and contact information of the person in their office with whom the other parties may communicate.

2014, c. 1, a. 103.

104. Model pleadings and documents established by the Minister are posted on the Ministère de la Justice website.

2014, c. 1, a. 104.

DIVISION II

SWORN PLEADINGS

105. Whenever the law requires that a pleading be supported by an oath or whenever it requires or allows an affidavit as evidence, the oath must be sworn by a person who can attest to the truth of the facts alleged in the pleading or affidavit.

The pleading or affidavit must mention the date and place the oath is sworn or received, as well as the name and address of the person swearing the oath and the name and capacity of the person receiving it.

The person who swore the oath may be examined on the facts whose truth the person attested to; similarly, the affiant may be examined on the facts mentioned in the affidavit if the pleading, attestation or affidavit is

deemed by law to be sworn. If the person refuses to submit to such an examination without valid cause, the pleading or affidavit is rejected.

2014, c. 1, a. 105.

106. A sworn statement, whatever its medium, must set out the facts and other evidence clearly and only contain facts or evidence that are relevant and the truth of which can be attested to by the person making the statement. A reference to the paragraphs in the pleadings is sufficient to identify the facts that are sworn to. Repeating the wording of pleadings may constitute an abuse of procedure.

Evidence by sworn statement is permitted when the defence is oral. It is required in the case of an interlocutory injunction, a seizure before judgment or a judicial review but does not preclude testimonial evidence.

2014, c. 1, a. 106; I.N. 2016-12-01.

DIVISION III

FILING OF PLEADINGS AND DOCUMENTS

107. An originating application must be filed with the court office before it is notified to the other parties. The court clerk records it in the court registers, opens and assigns an identification number to the case record and writes that number on the document to be used by the party for notification purposes. All other pleadings must be filed with proof of notification and with any other required document.

Pleadings that are to be presented at the hearing must be filed with the court office at least two days before the date of presentation, except in an urgent situation noted by the court.

No originating application may be set down for trial or judgment unless the plaintiff has first filed proof of notification; an originating application expires if it is not notified within three months after it is filed.

Pleadings on technological media filed outside court office hours are deemed filed at the court office's next opening time. In an urgent situation, the filing of a pleading outside court office hours may be attested to by the court clerk.

To be considered received on the date of its filing, a pleading must be filed with the prescribed court costs and fees, if any. However, if the amount of the costs and fees is determined by the court clerk after the pleading is filed, payment must be made not later than two days after the notification of a notice stating the amount.

2014, c. 1, a. 107; 2020, c. 29, s. 16.

108. The parties and the lawyers, or in non-contentious proceedings, the notaries representing the parties, must see to it that exhibits and other documents that contain identifying particulars generally held to be confidential are filed in a form that protects the confidentiality of the information.

Any document or real evidence that is filed in the record as an exhibit must remain in the record until the end of the proceeding, unless all the parties consent to its being removed. Once the proceeding has ended, the parties must retrieve the exhibits they have filed; otherwise, the court clerk may destroy them one year after the date on which the judgment becomes final or the date of the pleading terminating the proceeding. In either case, the chief justice or chief judge, if of the opinion that the exhibits can still be useful, may stay their destruction.

However, in reviewable or reassessable matters and, in non-contentious cases, notices, certificates, minutes, inventories, medical and psychosocial evidence, documents containing information relating to the parent of origin, affidavits, statements, declarations and documents made enforceable by a judgment,

including any child support determination form attached to a judgment, cannot be removed from the record or destroyed.

2014, c. 1, a. 108; 2022, c. 22, s. 139.

Note *See the Regulation to establish a pilot project relating to digital transformation of the administration of justice (chapter C-25.01, r. 6.2).*

CHAPTER VI

NOTIFICATION OF PLEADINGS AND DOCUMENTS

DIVISION I

GENERAL RULES

109. The purpose of notification is to bring a document, whether an originating application or any other pleading or document, to the attention of the persons concerned.

A document intended for two or more addressees must be notified to each separately.

2014, c. 1, a. 109.

110. Notification may be made by any appropriate method that provides the notifier with proof that the document was delivered, sent or published. Such methods include notification by court bailiff, by mail, by delivery, by technological means and by public notice.

If the law so requires, notification is made by a court bailiff, in which case it is called service.

Whatever the method of notification used, a person who acknowledges receipt of the document or admits having received it is deemed to have been validly notified.

2014, c. 1, a. 110.

111. Notification of a pleading by bailiff or by delivery of a document may only be made on days other than holidays, between 7 a.m. and 9 p.m. Notification of pleadings to lawyers, notaries and bailiffs or between them cannot be made on Saturdays, on holidays or before 8 a.m. or after 5 p.m. except with their consent.

Notification by a technological means on a Saturday or on a holiday or after 5 p.m. is deemed to have been made at 8 a.m. on the next working day.

2014, c. 1, a. 111.

112. If required by the circumstances, the court, on an informal request, authorizes notification of a pleading otherwise than as provided for in or outside the hours prescribed by this chapter; in such a case, the court determines how notification is to be proved. The decision of the court is recorded on or attached to the pleading.

The authorization of the court may be obtained in the district where the notification is to be made, the district of the court that is seized of the matter or the district of the notifier's residence or, for service of a notice of appeal, in the district where the judgment in first instance was rendered.

The court clerk may exercise the powers conferred on the court with respect to notification, except as regards the notification of pleadings in personal integrity, status or capacity matters.

2014, c. 1, a. 112.

113. Notification by a lawyer, a notary or a bailiff to a correspondent who is a lawyer, a notary or a bailiff may be made by any means of communication and the correspondent's signature is proof of the authenticity of the document.

2014, c. 1, a. 113.

114. The notifying party is required, on request, to let another party inspect the original or the document held by the notifying party. If the notifying party refuses or neglects to do so, the other party may seek a court order requiring compliance within the time specified by the court.

2014, c. 1, a. 114.

115. Notification of a pleading cannot be made in a public place of worship, a courtroom or a hearing room of an administrative tribunal, nor to a Member of the National Assembly in the chamber or a room where the Assembly or a committee sits.

Notification of a pleading can be made at the court office if the addressee has no known domicile, residence or business establishment and the addressee is not represented by a lawyer or no notary is acting for the addressee. In such circumstances, the notification of the notice of execution, of opposition to seizure or sale, or of application for the annulment of a seizure or sale can also be made at the court office.

2014, c. 1, a. 115; 2020, c. 29, s. 17.

DIVISION II

SERVICE OR NOTIFICATION BY BAILIFF

§ 1. — *General provisions*

116. Service or notification by bailiff is made by delivering the document to the addressee personally or, if this cannot be done, by leaving it at the addressee's domicile or residence with a person who appears to be capable of receiving it. If the document cannot be so delivered, it must be left at an appropriate place in a sealed envelope or in any other form that protects its confidentiality.

If the document is being served, the bailiff signs and stamps the document and records the date and time on it.

If the addressee refuses to accept the document, the bailiff records the refusal on the document, which is deemed to have been served or notified personally at the time of the refusal. The bailiff must leave the document on the premises by any appropriate means.

2014, c. 1, a. 116.

117. A bailiff may serve a document anywhere in Québec. However, if there is no bailiff firm in a radius of 75 km from the place of service, service may be made either by a person of full age residing within that radius and designated by the bailiff to act in the bailiff's name and under the bailiff's authority, or by any other method of notification best allowing the addressee to be reached. In the latter case, notification is made by delivering the document to the addressee in exchange for a receipt.

When service is required by law, the only professional fees and expenses that may be charged by the bailiff as legal costs are those chargeable under the regulation under the Court Bailiffs Act (chapter H-4.1).

2014, c. 1, a. 117.

118. A document may be served even if another method of notification is permitted by law; no additional cost above the cost of notification by mail may be charged to the addressee, however, unless the addressee has rendered service necessary or service has been authorized by the court.

2014, c. 1, a. 118.

119. Service is proved by a certificate of service drawn up by the bailiff under their oath of office.

The certificate of service must mention

(1) the court record number and the parties' names;

(2) the nature of the document;

(3) the place, date and time of service;

(4) the name of the person to whom the document was delivered and, if not the addressee, the person's capacity, or the place where the document was left, if applicable;

(5) if such is the case, the fact that the addressee refused to accept service or that the attempt to serve the document was unsuccessful; and

(6) the amount of the professional fees and expenses.

The bailiff may correct a clerical error in the certificate of service at any time before it is filed with the court office.

2014, c. 1, a. 119; I.N. 2016-12-01.

120. Service by a person designated by a bailiff is proved by a certificate of service drawn up by the person, stating their name, capacity and address. The certificate of service must be supported by a receipt given by the person who received the document, unless that person refused to give one, in which case that fact is recorded in the certificate of service.

On the face of the certificate drawn up by the designated person after an unsuccessful attempt to serve a document, the court may authorize notification by any method appropriate in the circumstances. The authorization is recorded on the certificate and on the document to be notified.

2014, c. 1, a. 120.

§ 2. — *Personal notification*

121. Service of an originating application must be made on the addressee personally if the addressee is 14 years of age or older and the application pertains to their personal integrity, status or capacity. The same applies if the addressee is imprisoned or otherwise confined against their will, or if their true identity is unknown or uncertain.

2014, c. 1, a. 121.

122. If the parties reside together, documents must be notified personally by one party to the other, unless they have agreed together to another method of notification.

2014, c. 1, a. 122.

123. In the case of a document other than an originating application, if there is a risk that personal notification could worsen the addressee's physical or psychological condition, the court may authorize the delivery of the document, in a form that protects its confidentiality, to an authorized person within the health

or social services institution or to the person in charge of the place where the addressee is, or to any other person designated by the court.

By way of exception, the court, if it considers that notification of an application concerning a person's confinement in a health or social services institution for or after a psychiatric assessment would be harmful to the health or safety of the person concerned or of another person, or in an urgent situation, may exempt such an application from notification.

2014, c. 1, a. 123.

§ 3. — *Notification through intermediary*

124. Notification to a natural person that cannot be made personally is made by leaving the document at the addressee's domicile or residence in the care of a person who resides or works there and appears to be capable of receiving the document; if this cannot be done, notification may be made by leaving the document at the addressee's business establishment or place of work in the care of the person in charge of the premises.

If the addressee's place of work is a means of transportation such as a ship, an airplane or a bus, the document may, if need be, be notified by a technological means.

2014, c. 1, a. 124.

125. Notification to a legal person is made at its head office or, if the head office is outside Québec, at one of its establishments in Québec, by leaving the document in the care of a person who appears to be in a position to give it to an officer or director or an agent of the legal person. It may also be made by delivering the document personally to such an officer, director or agent, wherever that person may be.

Notification of a document to a general or limited partnership or an association or any other group not endowed with juridical personality is made at its business establishment or office by leaving the document in the care of a person who appears to be in a position to give it to the addressee. It may also be made by delivering the document personally to one of its partners, members or officers, wherever that person may be.

Notification to a trustee, the liquidator of a legal person or enterprise or a trustee in bankruptcy is made at their domicile or place of work, either by delivering the document personally to them or by leaving the document in the care of a person who appears to be in a position to give it to the addressee.

2014, c. 1, a. 125.

126. Notification to the Attorney General of Québec is made at the Québec or Montréal office of the legal department of the Ministère de la Justice by leaving the document in the care of the person in charge of the premises.

2014, c. 1, a. 126.

127. Notification to the liquidator of a succession is made in the same manner as to a natural person; if the liquidator is unknown or resides outside Québec, notification may be made to one of the heirs.

Notification to heirs and legatees by particular title collectively designated as a party is made by leaving the document at the deceased's last domicile; if that domicile is outside Québec or is closed, or if no member of the deceased's family is to be found there, notification may be made to one of the heirs or legatees by particular title.

2014, c. 1, a. 127; I.N. 2016-12-01.

128. Notification may be made to a person designated by the addressee or at the addressee's elected domicile. If the addressee has no domicile, residence or business establishment in Québec, notification may be made at the firm of the lawyer representing the addressee or of the notary acting for the addressee.

2014, c. 1, a. 128.

§ 4. — *Notice of visit*

129. A bailiff who has been unable to deliver a document to the addressee or to an intermediary leaves a notice of visit, in a sealed envelope, at the addressee's domicile, residence or business establishment, informing the addressee of the unsuccessful delivery attempt and specifying the nature of the document, the notifier's name and the place where the addressee can take delivery of the document.

The notice may be left in the addressee's mailbox or in a place accessible only to the addressee or, failing that, in a place where it will be plainly visible; it may instead be left with the owner, administrator or manager of the building. In all cases, the owner, administrator or manager is required to co-operate with the bailiff, such as by providing access to an appropriate place.

Alternatively, the notice may be sent by a technological means.

2014, c. 1, a. 129.

DIVISION III

OTHER METHODS OF NOTIFICATION

§ 1. — *Notification by mail*

130. Notification by mail is made by sending the document to the addressee's last known residential address; if the place of residence is unknown, the document may be sent to the addressee's known place of work. A document is considered to be mailed by registered mail if the delivery or receipt of the document is recorded.

2014, c. 1, a. 130.

131. Notification by registered mail is proved by the delivery notice or the receipt notice presented by the letter carrier at the time of delivery. Failing that, it is proved by the sender's declaration that the document was sent, with a reference to the delivery or receipt status.

The notification is deemed to have been made on the date the receipt notice was signed by the addressee or an intermediary capable of receiving notification or, as applicable, on the date of the delivery notice.

2014, c. 1, a. 131.

§ 2. — *Notification by delivery of document*

132. Notification by delivery is made by having the document delivered by a courier or any other carrier to the addressee personally, to the addressee's representative or to a person who appears to be capable of receiving it and in a position to give it to the addressee. If the document is delivered to a person other than the addressee, it must be in a sealed envelope or in any other form that protects its confidentiality.

The notification is made according to the notifier's instructions and in exchange for a receipt, which is proof of the date on which the notification is presumed to have been made.

2014, c. 1, a. 132.

§ 3. — *Notification by technological means*

133. Notification by a technological means is made by sending the document to the address provided by the addressee for the receipt of the document, or to the address that is publicly known as the address where the addressee receives documents, provided the address is active at the time of sending.

However, notification by a technological means to a party not represented by a lawyer or a notary is permitted only with the party's consent or if ordered by the court.

2014, c. 1, a. 133.

134. Notification by a technological means is proved by the transmission slip or, failing that, by an affidavit of the sender.

The transmission slip must set out the nature of the document, the court record number, the names and contact information of the sender and the addressee, and the place, date, hour and minute of sending; unless the document was sent by a bailiff, the transmission slip must also contain the information needed to enable the addressee to make sure that the entire document was sent. The transmission slip is filed with the court office only if a party so requests.

2014, c. 1, a. 134.

See the Regulation to establish a pilot project relating to digital transformation of the administration of justice (chapter C-25.01, r. 6.2).

§ 4. — *Notification by public notice*

135. Notification by public notice is by order of the court. Notification by public notice may also be used without a court order by a bailiff who has tried unsuccessfully to serve a document and has recorded that fact in the certificate of service.

2014, c. 1, a. 135.

136. Notification by public notice is made by publishing a notice or a summary of a document in keeping with the model established by the Minister of Justice by any means likely to reach the person concerned, such as by posting it on a website recognized by an order of the Minister of Justice or by publishing it in, or posting it on the website of, a newspaper circulated in the municipality of the person's last known address or the municipality where the immovable that is the subject of the dispute is situated.

The notice or summary must be published in French on a website for at least 60 days or once only in hard copy in a newspaper. If required by the circumstances, the notice or summary may be published more than once or may also be published in English.

2014, c. 1, a. 136.

137. A public notice concerning an originating application must direct the defendant to take delivery of the application at the court office within 30 days or any other time specified, and must mention that its publication is by court order or on the bailiff's request.

2014, c. 1, a. 137.

138. Notification by public notice is proved by filing with the court office a relevant extract from the published document, showing the date and the method or place of publication.

Notification by public notice is deemed to have taken place on the date the time limit specified for taking delivery of the document expires.

2014, c. 1, a. 138; 2020, c. 29, s. 18.

DIVISION IV

NOTIFICATION OF CERTAIN PLEADINGS

139. An originating application must be served by bailiff. The same applies to other pleadings required to be served under this Code or another law.

Documents that must be served include

(1) subpoenas to witnesses;

(2) cross-applications and declaration of intervention;

(3) formal notices for the determination of boundaries;

(4) judgments granting an injunction or containing any other order to do or not do something;

(5) notices of appeal, applications for leave to appeal and applications for revocation of a judgment; and

(6) in execution matters, notices of execution, oppositions to seizure or sale, and applications for the annulment of a seizure or sale.

However, an application that impleads the Public Curator, the registrar of civil status, the Land Registrar, the Personal and Movable Real Rights Registrar, the enterprise registrar or the Agence du revenu du Québec may be notified to them otherwise than by service. The same applies to applications and other pleadings under Title II of Book VI and to cross-applications instituted against a party represented by a lawyer.

2014, c. 1, a. 139; 2016, c. 29, s. 23; 2020, c. 29, s. 19; 2020, c. 17, s. 63.

140. An originating application must be served on the defendant and the other parties. It is validly served only if certified by the serving party, its lawyer or the bailiff as being a true copy of the document filed with the court office.

Other pleadings by a party must be notified to the lawyers or, as applicable, notaries of the other parties, or to the parties themselves if they are not so represented. They may be certified as true copies on request.

If the pleading notified is not a true copy of the pleading filed with the court office, the notifier may notify a new pleading, with or without leave of the court depending on whether the party that was notified has replied or not to the pleading.

2014, c. 1, a. 140.

BOOK II

CONTENTIOUS PROCEEDINGS

TITLE I

INITIAL STAGES OF PROCEEDING

CHAPTER I

JUDICIAL APPLICATION

141. In a contentious case, a judicial application originating a proceeding is conducted according to the procedure set out in this Book.

The special rules for the conduct of certain civil matters set out in Book V and for special proceedings provided for in Book VI may supplement that procedure or depart from it.

2014, c. 1, a. 141.

142. Even in the absence of a dispute, a judicial application may be instituted to seek, in order to resolve a genuine problem, a declaratory judgment determining the status of the plaintiff, or a right, power or obligation conferred on the plaintiff by a juridical act.

2014, c. 1, a. 142.

143. Two or more subject matters or claims may be joined in the same judicial application, provided the conclusions sought are compatible. In family matters, the conclusions of the application may pertain to provisional measures, to claims for custody or support or to the principal application.

Two or more plaintiffs may join their claims and conclusions in the same application if they have the same juridical basis, are grounded on the same facts or raise the same points of law, or if circumstances permit. If the plaintiffs agree on the facts, they may confine the application to the issue of law which is likely to cause a dispute between them.

2014, c. 1, a. 143; I.N. 2016-12-01.

144. A plaintiff cannot divide a debt that is due for the purpose of claiming payment by means of more than one application.

2014, c. 1, a. 144.

CHAPTER II

SUMMONS AND DEFENDANT'S ANSWER

145. The plaintiff summons the defendant before justice by means of a summons attached to the application. The summons includes a list of the exhibits in support of the application. The plaintiff sends them to the defendant as soon as possible, in the manner they agree on.

The defendant must answer the application within the following 15 days, failing which a default judgment may be rendered and the legal costs awarded against the defendant.

2014, c. 1, a. 145; 2020, c. 29, s. 20.

146. The summons must be in keeping with the model established by the Minister of Justice.

It states, among other things, that the defendant must co-operate with the plaintiff in preparing the case protocol that is to govern the conduct of the proceeding; it also specifies the sanction to which the defendant is subject for failing to submit an answer to the application within 15 days after its service.

The summons also sets out the options available to the defendant in answering the summons.

It informs the defendant that, if article 43 applies, the defendant may ask for the referral of the originating application to the court having territorial jurisdiction by applying to the special clerk in the district concerned after notifying the request to the other parties and the office of the court already seized of the originating application.

Last, it informs the defendant of the defendant's right to contact the court office to request that the application be processed according to the rules of Title II of Book VI relating to the recovery of small claims, provided the defendant would qualify to act as plaintiff under those rules. It further states that if the defendant

requests that the application be so processed, the plaintiff's legal costs will not exceed those prescribed for the recovery of such claims.

2014, c. 1, a. 146; I.N. 2016-12-01.

147. In the answer to the summons, the defendant states their intention to either negotiate a settlement or defend the application and establish a case protocol with the plaintiff. The defendant may also propose mediation or a settlement conference. The answer to the summons must include the defendant's contact information and, if the defendant is represented by a lawyer, the lawyer's name and contact information.

The answer is notified to the plaintiff's lawyer or, if the plaintiff is not represented, to the plaintiff; it is filed with the court office whose contact information is given in the summons.

If two or more defendants have been summoned, the plaintiff is required to inform all the parties of the answers received and of the names of the defendants' lawyers.

2014, c. 1, a. 147.

CHAPTER III

CASE MANAGEMENT

DIVISION I

CASE PROTOCOL

148. The parties are required to co-operate to either arrive at a settlement or establish a case protocol. In the case protocol, the parties set out their agreements and undertakings and the issues in dispute, indicate the consideration given to private dispute prevention and resolution processes, describe the steps to be taken to ensure the orderly conduct of the proceeding, assess the time completing these steps could require and the foreseeable legal costs, and set the deadlines to be met within the strict time limit for trial readiness.

The case protocol covers such aspects as

(1) preliminary exceptions and safeguard measures;

(2) the advisability of holding a settlement conference;

(3) pre-trial written or oral examinations, their necessity and, if any are to be conducted, their anticipated number and length;

(4) the advisability of seeking one or more expert opinions, the nature of the opinion or opinions to be sought and the reasons why the parties do not intend to jointly seek expert opinion, if that is the case;

(5) the defence, whether it will be oral or written, and, if the defence is oral, the advisability of filing a brief outline of the arguments made and the time limit for filing the outline if it cannot be filed with the case protocol or, if the defence is written, the time limit for filing it;

(6) the procedure and time limit for pre-trial discovery and disclosure;

(7) foreseeable incidental applications;

(8) the extension of the time limit for trial readiness, if an extension proves necessary; and

(9) the methods of notification the parties intend to use.

If warranted by the complexity of the case or by special circumstances, the parties may agree on a complementary protocol to provide for points that cannot be determined at the case protocol stage or identify certain points on which they were unable to reach an agreement.

2014, c. 1, a. 148; I.N. 2016-12-01; 2020, c. 29, s. 21.

149. A case protocol agreed between the parties' lawyers must be notified to the parties unless they have signed it.

It must be filed with the court office within 45 days after service of the summons or, in family matters, within three months after service of the summons.

2014, c. 1, a. 149.

150. Within 20 days after the case protocol is filed, the court examines it in light of the directives given by the chief justice or chief judge to ensure that the guiding principles of procedure are observed. The case protocol is presumed to be accepted unless the parties are called, within that same 20-day period, to a case management conference, which must be held within 30 days after the notice calling the conference.

The case protocol accepted by or established in conjunction with the court is binding on the parties, who are each required to comply with it under pain, among other sanctions, of paying the legal costs incurred by any of the parties or by third persons as a result of their failure to comply. The parties cannot amend the case protocol without the approval of the court unless the amendment pertains to the agreed time limits or facilitates the conduct of the proceeding, and is not inconsistent with specific decisions of the court; the parties are required to file all amendments to the case protocol with the court office.

2014, c. 1, a. 150.

151. A person impleaded by the application may participate in the establishment of the case protocol. To do so, the person must inform the parties within 15 days after notification. Otherwise, the person is presumed to accept the case protocol established by the parties.

A person who becomes a party in the course of a proceeding must, within 15 days, propose terms for their participation in the proceeding, taking into account the existing case protocol. Failing agreement with the other parties, the person may ask the court to set those terms and amend the case protocol accordingly.

2014, c. 1, a. 151.

152. If a party fails to co-operate in establishing a case protocol, the other party files a proposal within the time limit for filing. On the expiry of a period of 10 days after the date of the filing, the proposal serves as the case protocol filed on that same date, unless the party that failed to co-operate has stated the points on which the parties differ. If the differences between the parties are such that they are unable to establish a case protocol, one of the parties or each of them files a proposal within the time limit for filing, stating the points on which the parties differ. If points on which the parties differ remain, the court may either convene the parties to establish the case protocol or establish the case protocol, even on its own initiative.

2014, c. 1, a. 152; 2020, c. 29, s. 22.

DIVISION II

CASE MANAGEMENT CONFERENCE

153. At the case management conference convened on the court's own initiative or on request, the court acquaints itself with the issues of fact or law in dispute, examines the case protocol, discusses it with the parties and takes the appropriate case management measures. If it considers it useful, the court may require undertakings from the parties as to the further conduct of the proceeding, or subject the proceeding to certain conditions.

If a party is absent without valid reason, the court may hear the party that is present if the latter is ready to proceed on case management measures.

If the parties have agreed on a complementary protocol, the court may also schedule another case management conference.

2014, c. 1, a. 153.

154. At the case management conference, the court may decide to hold a hearing of the parties, on the preliminary exceptions, or to hear the defendant on the grounds of defence, which are recorded in the minutes of the hearing or in a brief statement. The court may try the case immediately if the defence is to be oral and the parties are ready to proceed, postpone the hearing to a specified later date or leave it to the court clerk to set the date.

Preliminary exceptions are presented and contested orally, but the court may authorize the parties to submit the relevant evidence.

2014, c. 1, a. 154; 2020, c. 29, s. 23.

155. If the court tries the application on the same day as the case management conference, the parties prove their cases by means of affidavits if the law so requires or permits. They may also present any other evidence, be it testimonial or documentary.

2014, c. 1, a. 155.

156. If it is shown to the court that the application is of a conservatory nature, that a settlement is possible and that the effort required to prepare the case for trial would be wasted or disproportionate in the circumstances, and the court is in addition convinced of the seriousness of the steps taken, the court may stay the proceeding for the time it determines. It may lift the stay on a party's request if it considers that the grounds for the stay no longer exist.

2014, c. 1, a. 156.

DIVISION III

SPECIAL CASE MANAGEMENT

157. In order to ensure the orderly progress of a proceeding, the chief justice or chief judge may, on their own initiative, given the nature, character or complexity of the case, order that it be examined and, if warranted, case-managed as soon as the application is instituted and even before the case protocol is filed.

The chief justice or chief judge may also, for the same reasons, on their own initiative or on request, order special case management at any time and assign a judge as special case management judge. The special case management judge is responsible for deciding all incidental applications, convening a case management conference and a pre-trial conference if warranted, and issuing such orders as are appropriate, unless another judge is temporarily assigned because the special case management judge is unable to act. The special case management judge may also be assigned to preside over the trial and render judgment on the merits of the principal application.

The judge seized of a case may also, for the same reasons and with the authorization of the chief justice or chief judge, on their own initiative or on request, order special case management at any time, in which case the judge has the same responsibilities as a judge assigned by the chief justice or chief judge.

2014, c. 1, a. 157; 2020, c. 29, s. 24.

DIVISION IV

CASE MANAGEMENT MEASURES

158. For case management purposes, at any stage of a proceeding, the court may decide, on its own initiative or on request, to

(1) take measures to simplify or expedite the proceeding and shorten the trial by ruling, among other things, on the advisability of ordering the consolidation or separation of proceedings or the splitting of the proceeding, of better defining the issues in dispute, of amending the pleadings, of limiting the length of the trial, of admitting facts or documents, of authorizing affidavits in lieu of testimony or of determining the procedure and time limit for the disclosure of exhibits and other evidence between the parties, or by convening the parties to a case management conference or a settlement conference, or encouraging them to use mediation;

(2) assess the purpose and usefulness of seeking expert opinion, whether joint or not, determine the mechanics of that process as well as the anticipated costs, and set a time limit for submission of the expert report; if the parties failed to agree on joint expert evidence, assess the merits of their reasons and impose joint expert evidence if it is necessary to do so to uphold the principle of proportionality and if, in light of the steps already taken, doing so is conducive to the efficient resolution of the dispute without, however, jeopardizing the parties' right to assert their contentions;

(3) determine terms for the conduct of pre-trial examinations, if such examinations are required, including their number and their length when it appears necessary to exceed the time prescribed by this Code;

(4) order notification of the application to persons whose rights or interests may be affected by the judgment, or invite the parties to bring a third person in as an intervenor or to implead a third person if the court considers that that person's participation is necessary in order to resolve the dispute and, in family or personal status or capacity matters, order the production of additional evidence;

(5) rule on any special requests made by the parties, modify the case protocol or authorize or order provisional measures or safeguard measures as it considers appropriate;

(6) determine whether the defence is to be oral or written;

(7) extend the time limit for trial readiness; or

(8) issue a safeguard order, effective for not more than six months.

2014, c. 1, a. 158.

159. The court's case management decisions are recorded in the minutes of the hearing and are considered to be part of the case protocol. Unless revised by the court, they govern the conduct of the proceeding together with the case protocol.

2014, c. 1, a. 159.

160. If the court orders the appointment of a lawyer to represent a minor or a person of full age it considers incapable who is not represented by a tutor or a mandatary, it rules, if need be, on the lawyer's fee, which is borne either by the minor's father and mother or parents, or by the incapable person.

In the case of such a person of full age, the court, on its own initiative, may order that the application be notified to the person's spouse, a close relative or a person who shows a special interest in the person or, in their absence, to the Public Curator.

In all cases where the representative of a minor or of an incapable person of full age has an interest adverse to that of the minor or incapable person, the court, even on its own initiative, may appoint a tutor ad hoc to ensure proper representation of the minor or incapable person.

If required by the circumstances, the court may stay the proceeding for the time it specifies.

2014, c. 1, a. 160; 2022, c. 22, s. 140; 2020, c. 11, s. 254.

CHAPTER IV

SETTLEMENT CONFERENCE

161. At any stage of a proceeding but before the scheduled trial date, the chief justice or chief judge may assign a judge to preside over a settlement conference if the parties so request, briefly stating the issues to be examined, or if the chief justice or chief judge recommends that a settlement conference be held and the parties concur. The chief justice or chief judge may also do so even after the scheduled trial date, if exceptional circumstances so warrant.

Presiding over settlement conferences falls within the conciliation mission of judges.

2014, c. 1, a. 161.

162. The purpose of a settlement conference is to facilitate dialogue between the parties to help them better understand and assess their respective needs, interests and positions, and explore solutions that may lead to a mutually satisfactory agreement to resolve the dispute.

2014, c. 1, a. 162.

163. A settlement conference is held in the presence of the parties, and, if the parties so wish, in the presence of their lawyers. It is held in camera, at no cost to the parties and without formality.

The settlement conference does not stay the proceeding, but the judge presiding over the conference, if of the opinion that it is necessary, may modify the case protocol accordingly.

Anything said, written or done during the settlement conference is confidential.

2014, c. 1, a. 163.

164. In agreement with the parties, the judge determines the schedule of meetings, the rules applicable to the settlement conference and any measure to facilitate its conduct.

The rules may, among other things, allow the judge to meet with the parties separately and allow other persons to take part in the settlement conference if it is considered that their presence would be helpful in resolving the dispute.

The parties are required to ensure that the persons who have the authority to make a settlement agreement are present at the conference or that they can be reached in sufficient time to give their consent.

2014, c. 1, a. 164.

165. If a settlement is reached, the judge may, on an application, homologate the transaction.

If no settlement is reached, the judge may take the appropriate case management measures or, with the parties' consent, convert the settlement conference into a case management conference. The judge cannot, however, subsequently try the case or decide any incidental application.

2014, c. 1, a. 165.

CHAPTER V

DEFENCE

DIVISION I

PRELIMINARY EXCEPTIONS

§ 1. — *General provisions*

166. A party that has preliminary exceptions to raise must disclose them in writing to the other party in sufficient time and file the written disclosure with the court office.

The party must do so before the time limit for filing the case protocol or on the date specified in the case protocol, or at least three days before the date set by the court for the case management conference on the case protocol, or, if no case protocol is required, at least three days before the originating application is to be presented before the court. If an exception to dismiss an application or a defence is raised, the three-day time limit is extended to 10 days.

The disclosure and filing required by the first paragraph may only be effected at another time in cases determined by law or with the authorization of the court if serious reasons so warrant.

2014, c. 1, a. 166; 2020, c. 29, s. 25.

§ 2. — *Declinatory exception*

167. If an application is brought before a court other than the court of competent jurisdiction, a party may ask that it be referred to the competent court or, failing that, that it be dismissed.

Lack of subject-matter jurisdiction may be raised at any stage of the proceeding, and may even be declared by the court on its own initiative, in which case the court adjudicates as to legal costs according to the circumstances.

2014, c. 1, a. 167.

§ 3. — *Exception to dismiss*

168. A party may ask that an application or a defence be dismissed if

(1) there is lis pendens or res judicata;

(2) one of the parties is incapable or does not have the necessary capacity to act; or

(3) one of the parties clearly has no interest.

The party may also ask that an application or a defence be dismissed if it is unfounded in law even if the facts alleged are true. Such an exception may pertain to only part of the application or defence.

The court may, on the face of the record, deny an application for dismissal based on the grounds that it has no reasonable chance of success.

The party against which the exception is raised may be allowed a period of time to correct the situation but if, on the expiry of that period, the correction has not been made, the application or defence is dismissed.

The dismissal of an application may be urged even if the exception to dismiss was not raised before the first case management conference.

2014, c. 1, a. 168; 2020, c. 29, s. 26.

§ 4. — *Other exceptions*

169. A party may apply to the court for any measure conducive to the orderly conduct of the proceeding.

A party may also apply to the court for an order directing another party to provide particulars as to the allegations made in the application or the defence, disclose a document to the party or strike immaterial allegations.

A judgment granting such an application may require a party to do something within a specified time under pain of the originating application or the defence being dismissed or the allegations in question being struck.

2014, c. 1, a. 169; I.N. 2016-12-01.

DIVISION II

DEFENCE ON MERITS

170. Defending an application, whether orally or in writing, consists in raising all the grounds of law or fact that argue against granting in whole or in part the conclusions sought in the application. In its defence, a party may allege any material facts, even material facts that have arisen since the application was instituted, and advance any conclusions necessary to defeat grounds set up by the other parties.

If the defence is oral, the arguments made are recorded in the minutes of the hearing or in a brief outline attached to the minutes. If the defence is written, it is set out in a pleading.

The defendant discloses to the plaintiff the exhibits in support of the defence as soon as possible, in the manner they agree on.

A declaration by a party that it submits to justice is not a defence, nor is it acquiescence in the claims of another party.

2014, c. 1, a. 170; 2020, c. 29, s. 27.

171. The defence is to be oral unless the case presents a high level of complexity or special circumstances warrant otherwise.

The defence is to be oral, for example, in all instances where the purpose of the proceeding is to obtain support or a right relating to the custody of a child, to obtain the surrender of property, an authorization, a designation, a homologation or the recognition of a decision, or a determination as to the manner in which an office is to be discharged or the sole determination of an amount of money due under a contract or as reparation for proven injury.

2014, c. 1, a. 171; I.N. 2016-12-01.

172. In the defence, the defendant may make a cross-application against the plaintiff to assert a claim arising from the same source as the principal application or from a related source. The court remains seized of the cross-application despite discontinuance of the principal application.

A cross-application is made in writing but defended orally, unless the court, on its own initiative, requires that it be defended in writing.

2014, c. 1, a. 172; I.N. 2016-12-01.

CHAPTER VI

READINESS FOR TRIAL AND SETTING DOWN FOR TRIAL AND JUDGMENT

173. The plaintiff is required to ready the case for trial within six months, or one year in family matters, after the date on which the case protocol is presumed to be accepted or after the date on which the court accepted or established the case protocol, and, before that strict time limit expires, to file a request with the court office to have the case set down for trial and judgment.

Nevertheless, if warranted by the high level of complexity of the case or by special circumstances, the court may extend the time limit at a case management conference. Even after the case management conference, the court may extend the time limit before it expires, if the parties show that it was impossible in fact, at the time of that conference, to properly assess how long they would need to ready the case for trial, or that circumstances unforeseeable at that time have since occurred. The new time limit set by the court is also a strict time limit.

If the parties or the plaintiff have not filed a case protocol or a proposed case protocol within the prescribed 45-day or three-month time limit for doing so, the six-month or one-year time limit under this article is counted from service of the application. In such an instance, the court cannot extend the latter time limit unless it was impossible in fact for one of the parties to act.

2014, c. 1, a. 173; 2020, c. 29, s. 28.

174. A request for setting down for trial and judgment is made by means of a joint declaration by the parties stating that the case is ready for trial and containing

(1) the name of each party and, if the party is represented, its lawyer's name, as well as their contact information;

(2) a list of the exhibits and other evidence disclosed between the parties;

(3) a list of the witnesses each party intends to call and a list of those whose testimony it intends to present in the form of affidavits, unless there is valid cause not to disclose their identities;

(4) a list of the facts that are admitted;

(5) a list of the points to be determined by experts; and

(6) an estimate of the length of the trial and, if applicable, particulars as to the use of the services of an interpreter or the use of technological means.

If the declaration cannot be made by the parties jointly, the plaintiff or, if the plaintiff fails to do so, another party, files a declaration and notifies it to the other parties. The declaration is deemed confirmed unless the other parties specify, within 15 days after it is notified, what should, in their opinion, be added or deleted.

2014, c. 1, a. 174.

175. If the defendant fails to answer the summons or to file a defence within the time limit set in the case protocol or prescribed by this Code and the plaintiff so requires, the court clerk sets the case down for judgment. If the defendant fails to attend the case management conference, the case is set down for judgment on an order of the court.

In such instances, the plaintiff must file the exhibits and the plaintiff's own affidavit with the court office.

2014, c. 1, a. 175; 2023, c. 3, s. 4.

176. A premature or irregular request for setting down a case may be cancelled by the court or the court clerk, on their own initiative. A request made after the expiry of the time limit prescribed by law or set by the court is inadmissible.

2014, c. 1, a. 176.

177. A plaintiff who fails to file a request for setting down within the strict time limit is presumed to have discontinued the application, unless another party files such a request within 30 days after the expiry of the time limit.

The court may relieve the plaintiff from this sanction if it is satisfied that it was impossible in fact for the latter to act within the time limit. In such an instance, the court modifies the case protocol and sets a new time limit, which cannot be extended except for compelling reasons.

2014, c. 1, a. 177.

178. Once the case has been set down for trial, a notice of the scheduled trial date is notified by the court clerk to the parties and their lawyers unless a trial date was set by the court or with the parties' consent. The notice is notified at least one month but not more than two months before the trial date, unless the parties agree to a shorter notice period. The notice is presumed to have been received if the notification is recorded in the court register.

The fact that a party did not receive the notice is not grounds for postponing the trial if its lawyer received it.

2014, c. 1, a. 178.

CHAPTER VII

PRE-TRIAL CONFERENCE

179. Once a case has been set down, the judge who is to preside over the trial, or any other judge designated by the chief justice or chief judge, may, on the judge's own initiative or on request, convene the lawyers to discuss appropriate means of simplifying and shortening the trial.

The lawyers must, on the judge's request, provide any exhibits or other evidence not already filed in the record that they intend to produce as evidence during the trial.

The agreements and decisions made during the pre-trial conference are recorded in the minutes of the conference and are binding on the parties during the trial.

2014, c. 1, a. 179.

CHAPTER VIII

PROCESSING OF CASE SET DOWN FOLLOWING DEFENDANT'S DEFAULT

180. If a case has been set down following the defendant's failure to answer the summons, the plaintiff may obtain judgment without further delay or notice. However, if the failure is attributable to the Attorney General, the plaintiff must give the Attorney General at least one month's notice before filing the request for setting down.

If a case has been set down following the defendant's failure to attend the case management conference without valid cause or to defend the application within the time limit set in the case protocol or prescribed by

this Code, the plaintiff must give the defendant at least five days' advance notice before the case proceeds to trial.

2014, c. 1, a. 180; 2023, c. 3, s. 5.

181. In default proceedings, the special clerk may render judgment if the sole subject matter of the application is the price of a service contract or the sales price of movable property; the special clerk may also render judgment if the application seeks payment of an amount of money clearly stated in an authentic act or private writing.

The special clerk renders judgment on the face of the application, the exhibits supporting the plaintiff's claims and an affidavit by the plaintiff attesting that the amount claimed is owed to the plaintiff.

The special clerk may also, after the evidence stage, render judgment on any other matter except family matters.

2014, c. 1, a. 181.

182. When the presentation of evidence is necessary, the special clerk receives the evidence, which may be adduced solely in the form of affidavits.

During the evidence stage of the proceeding, the defendant cannot produce witnesses but may cross-examine any witnesses called by the plaintiff. The witnesses may also be examined by the special clerk or by the judge in chambers, if the clerk or judge sees fit. The witnesses' depositions are recorded, unless waived by the parties.

2014, c. 1, a. 182.

183. If there are two or more defendants but only one or some are in default, the plaintiff may proceed first against those in default and request that the case be set down for judgment by the court, after giving notice to all who are party to the case protocol. However, if the court is of the opinion that the dispute requires a uniform decision for all the defendants, given the subject matter of the application or to avoid conflicting judgments, it orders the proceeding to continue against all of them in accordance with the case protocol.

2014, c. 1, a. 183.

TITLE II

INCIDENTAL PROCEEDINGS

CHAPTER I

INTERVENTION OF THIRD PERSONS IN PROCEEDING

DIVISION I

GENERAL PROVISIONS

184. Intervention is either voluntary or forced.

Intervention is voluntary when a person who has an interest in a proceeding but is not a party or whose participation in a proceeding is necessary in order to authorize, assist or represent an incapable party intervenes in the proceeding as a party. It is also voluntary when a person wishes to intervene for the sole purpose of participating in argument during the trial.

Intervention is forced when a party impleads a third person so that the dispute may be fully resolved or so that the judgment may be set up against that third person. It is also forced when a party intends to exercise a recourse in warranty against the third person.

2014, c. 1, a. 184.

DIVISION II

VOLUNTARY INTERVENTION

185. Voluntary intervention is termed aggressive when the third person seeks to be acknowledged as having, against the parties or one of them, a right which is in dispute. It is termed conservatory when the third person wishes to be substituted for one of the parties in order to represent it, or to be joined with one of the parties in order to assist it or support its claims. A third person is said to intervene as a friend of the court when seeking only to participate in argument during the trial.

A third person who intervenes for aggressive or conservatory purposes becomes a party to the proceeding.

2014, c. 1, a. 185.

186. A third person who wishes to intervene for conservatory or aggressive purposes notifies a declaration of intervention to the parties, setting out the person's interest in the case and claims, the conclusions sought and the facts justifying such conclusions. The declaration of intervention must also propose an intervention procedure, with due regard for the case protocol.

The parties have 10 days to notify their opposition to the third person and the other parties. If no opposition is notified, the third person's interest is presumed to be sufficient and the proposed intervention procedure to be accepted on the filing of the declaration of intervention with the court office. If opposition is notified, the third person presents the declaration of intervention before the court in order to obtain a ruling on the person's interest and the intervention procedure.

2014, c. 1, a. 186.

187. A third person who wishes to intervene as a friend of the court during the trial must obtain authorization from the court. The person must file a declaration of intervention setting out the purpose of and grounds for the intervention and notify it to the parties at least five days before the date the application for authorization is to be presented before the court.

After hearing the third person and the parties, the court may grant authorization if it is of the opinion that the intervention is expedient; in making its decision, the court considers the importance of the issues in dispute, particularly in relation to the public interest, and the usefulness of the third person's contribution to the debate.

2014, c. 1, a. 187.

DIVISION III

FORCED INTERVENTION

188. A third person is impleaded by service of a declaration of intervention setting out the grounds justifying the forced intervention of that third person as a party, together with the judicial application. The declaration of intervention must also propose an intervention procedure, with due regard for the case protocol and state to the third person that that person must answer within the following 15 days.

The declaration of intervention is also notified to the other parties and they have 10 days after the third person answers to notify their opposition.

2014, c. 1, a. 188; 2020, c. 29, s. 29.

189. When the purpose of the forced intervention is to call a third person in warranty, the warranty is termed simple if the plaintiff in warranty is being sued as personally liable. The warranty is termed formal if the plaintiff in warranty is being sued as the holder of a thing.

A third person called in simple warranty cannot take up the defence of the plaintiff in warranty, but may merely contest the application brought against the latter, if the person sees fit.

A third person called in formal warranty may take up the defence of the plaintiff in warranty and the latter may ask to be relieved from defending. In order to preserve their respective rights, the plaintiff in warranty, although relieved from defending, may remain in the proceeding and the principal plaintiff may require that the plaintiff in warranty remain in the proceeding. A judgment rendered against the formal warrantor is enforceable against the plaintiff in warranty after it is notified to the latter.

2014, c. 1, a. 189.

190. The principal application and the recourse in warranty are joined in a single proceeding and, unless separated by the court, are subject to the same case protocol, which is revised to take the recourse in warranty into account. The principal application and the recourse in warranty are tried together and a single judgment decides them both.

2014, c. 1, a. 190.

CHAPTER II

INCIDENTAL PROCEEDINGS RELATING TO PARTIES' LAWYERS

191. A party may ask, in the course of a proceeding, that its lawyer be disavowed and that acts that exceeded the scope of that lawyer's mandate be repudiated. The application is brought by the party itself or by a specially mandated lawyer and is notified to the disavowed lawyer and the other parties.

After judgment, such a disavowal must be sought by means of an originating application. Execution of the judgment is not stayed unless the court so orders.

If the disavowal is held to be well-founded, the repudiated acts are annulled and the parties, restored to their former state.

2014, c. 1, a. 191.

192. If, before a case is taken under advisement, the lawyer of one of the parties withdraws, dies or becomes disqualified from practising as a lawyer, a formal notice must be given to the party to appoint another lawyer or send the other parties a notice of intention to self-represent. The party must answer the formal notice within 10 days after its notification. No pleading may be filed or judgment rendered during that time.

A party that revokes the mandate of its lawyer must notify its decision to the other parties and to the court clerk and state its intention to appoint a new lawyer or to self-represent.

The lawyer brought in as a substitute must, without delay, notify a representation statement giving the lawyer's name and contact information to the other parties and to the court clerk.

If the party does not appoint a new lawyer, the proceeding continues as though the party were not represented. If the party does not comply with the case protocol or the rules of representation, any other party, if a plaintiff in the case, may request, without prior notice, that the case be set down for judgment, or, if a defendant in the case, that the application be dismissed.

A party represented by a lawyer is deemed to have been informed of another party's lawyer's death, disqualification or appointment to a public office that is incompatible with practice as a lawyer, without notification of the death, disqualification or appointment being necessary.

2014, c. 1, a. 192; 2020, c. 29, s. 30.

193. On a party's application, a lawyer may be declared disqualified to act in a proceeding, as when the lawyer is in a conflict of interest situation and does not take steps to remedy it, has disclosed or is likely to disclose confidential information to another party or a third person, or is called to testify in the proceeding on essential facts. In the latter case, the lawyer may only be declared disqualified for serious cause.

2014, c. 1, a. 193.

194. Before a trial date has been set, a lawyer who wishes to cease representing a party may do so after notifying the party, the other parties and the court clerk.

If a trial date has been set, the lawyer cannot cease representing the party, nor may another lawyer be brought in as a substitute, without the authorization of the court.

2014, c. 1, a. 194.

195. If parties joined as plaintiffs in an application are represented by the same lawyer, the court, to avoid genuine problems and to ensure that justice is done, may adjourn the trial until each of the parties has appointed a new lawyer or filed a notice of intention to self-represent.

2014, c. 1, a. 195.

CHAPTER III

CONTINUANCE OF PROCEEDING

196. A proceeding is not delayed because a party has had a change of status or capacity, has ceased to exercise certain functions or has died.

However, the court may extend the strict time limit for trial readiness so that interested persons may continue the proceeding or be given a formal notice to do so. In such a case, the proceeding is stayed for the time specified by the court.

2014, c. 1, a. 196.

197. A lawyer who learns that the party they are representing has had a change of status or capacity, has ceased to exercise certain functions or has died is required to notify that information to the other parties.

Pleadings filed before the notification are valid. Those filed after the notification are without effect, except conservatory ones intended to preserve the rights of the persons likely to continue the proceeding.

2014, c. 1, a. 197.

198. A proceeding may be continued by a person who, as a result of a party's change of status or capacity or loss of capacity, has acquired the capacity and the interest required to continue the proceeding.

A proceeding may also be continued by the person succeeding to a party's functions, by the liquidator of the succession or the heirs of a deceased party or by a successor who has acquired the right that is the subject matter of the dispute.

2014, c. 1, a. 198.

199. Heirs who are parties to a proceeding are required to notify the liquidator's name, address and other contact information to the other parties as soon as the liquidator takes charge of the succession.

Pleadings filed before the notification are valid, unless the court decides otherwise on the liquidator's request. Those filed after the notification are without effect and the proceeding is stayed until continued by the liquidator.

2014, c. 1, a. 199.

200. A continuance of proceeding is obtained by filing with the court office a notice stating the facts giving rise to the continuance and notifying it to all the parties. The right to continue the proceeding may be contested within 10 days after the notification. If it is not contested within that time, the continuance of proceeding is deemed admitted.

If the interested persons do not continue the proceeding, a party may give them a formal notice to do so. If they fail to comply within 10 days, any plaintiff in the case may request that the case be set down for judgment as in default cases, and any defendant in the case, that the application be dismissed.

2014, c. 1, a. 200.

CHAPTER IV

RECUSATION

201. A judge who considers that one of the parties may have serious reasons to question the judge's impartiality is required to declare as much to the chief justice or chief judge without delay. In such a case, the chief justice or chief judge designates another judge to continue or try the case and informs the parties.

A party that has serious reasons to question the judge's impartiality must declare as much without delay in a written statement notified to the judge and the other party. If the judge does not withdraw from the case within 10 days after the notification, a party may make an application for recusation. A party may, however, waive the right to recuse.

Statements and any other document relating to the recusation are filed in the record.

2014, c. 1, a. 201.

202. The following situations, among others, may be considered serious reasons for questioning a judge's impartiality and for justifying the judge's recusation:

(1) the judge being the spouse of one of the parties or of the lawyer of one of the parties, or the judge or the judge's spouse being related or connected by marriage or civil union to one of the parties or to the lawyer of one of the parties, up to the fourth degree inclusively;

(2) the judge being a party to a proceeding pertaining to an issue similar to the one before the judge for determination;

(3) the judge having given advice or an opinion on the dispute or having previously dealt with the dispute as arbitrator or mediator;

(4) the judge having represented one of the parties;

(5) the judge being a shareholder or an officer of a legal person or a member of a partnership or an association or another group not endowed with juridical personality that is a party to the proceeding;

(6) a serious conflict existing between the judge and one of the parties or the lawyer of one of the parties, or threats or insults having been uttered between them during the proceeding or in the year preceding the application for recusation.

2014, c. 1, a. 202.

203. A judge who has an interest or whose spouse has an interest in a case is disqualified and cannot hear the case.

2014, c. 1, a. 203.

204. An application for recusation is notified to the judge and the other parties on the expiry of 10 days after notification of the statement.

If no statement was made, a party may apply for recusation at any stage of the proceeding, provided it shows that it has been diligent. The application may be made orally during the trial, in which case the reasons given are recorded in the minutes of the hearing.

If the application for recusation is against the sole judge assigned to sit in the district where the proceeding has been brought, the court clerk immediately informs the chief justice or chief judge.

2014, c. 1, a. 204.

205. The application for recusation is decided by the judge seized of the case. The decision may be appealed by leave of a judge of the Court of Appeal.

If the application is granted, the judge must withdraw from the case and abstain from sitting. If the application is dismissed, the judge continues to be seized of the case.

The court clerk advises the chief justice or chief judge of any case in which the trial is postponed because the judge has decided to withdraw from the case.

2014, c. 1, a. 205.

CHAPTER V

INCIDENTAL PROCEEDINGS RELATING TO PLEADINGS

DIVISION I

WITHDRAWAL OR AMENDMENT OF PLEADING

206. At any time before judgment, the parties may withdraw or amend a pleading without it being necessary to obtain an authorization from the court, provided doing so does not delay the proceeding and is not contrary to the interests of justice. However, the amendment of a pleading must not result in an entirely new application having no connection with the original one.

An amendment to a pleading may be made, for instance, to replace, correct or complete statements or conclusions, allege new facts or assert a right accrued since the notification of the judicial application.

2014, c. 1, a. 206.

207. A party that intends to withdraw or amend a pleading must notify the intended withdrawal or the amended pleading to the other parties, which have 10 days to notify their opposition. If no opposition is

notified, the withdrawal or amendment is accepted. If opposition is notified, the party that intends to withdraw or amend the pleading presents its application before the court for a decision.

If any of the other parties must respond following the withdrawal or amendment of a pleading, the time limit for responding is set by the parties or, if the time limit is not already specified in the case protocol, by the court. If, as a result, a new defendant is brought into the proceeding, the judicial application must be notified to that party without delay.

2014, c. 1, a. 207.

208. During the trial and in the presence of the other parties, the court may authorize a party to withdraw or amend a pleading without formality. The decision is recorded in the minutes of the hearing and any amended pleading is filed in the record as soon as possible, without notification being necessary.

At any time before judgment, the court, on its own initiative, may order the immediate correction of any clerical error or error of form, expression or calculation in a pleading, subject to the conditions it sees fit.

2014, c. 1, a. 208.

DIVISION II

DETERMINATION OF ISSUE OF LAW

209. The parties to a proceeding may jointly submit to the court a controversy between them on an issue of law raised by the dispute. The court determines the issue in the course of the proceeding if it considers that doing so is useful for the orderly progress of the proceeding; otherwise, it defers its determination of the issue until the judgment on the merits of the case.

2014, c. 1, a. 209.

DIVISION III

CONSOLIDATION AND SEPARATION OF PROCEEDINGS

210. Even when the applications do not arise from the same source or from related sources, the court may order that two or more proceedings between the same parties brought before the same court be consolidated, provided this does not result in undue delay for any of the parties or serious prejudice to a third person.

As well, the court may order that two or more proceedings pending before it, whether or not they involve the same parties, be consolidated in order to be tried at the same time and determined on the same evidence, that the evidence in one of the proceedings be used in another or that one of the proceedings be tried and determined before the others.

When applications have been joined in the same proceeding, the court, if it considers it advisable in order to protect the parties' rights, may order that they be separated and dealt with in different proceedings.

2014, c. 1, a. 210.

DIVISION IV

SPLITTING OF PROCEEDING

211. The court, even on its own initiative, may split a proceeding if it thinks it advisable in order to protect the parties' rights. The resulting applications are tried before the same judge, unless the chief justice or chief judge decides otherwise.

A judgment rendered on one of the applications resulting from the splitting of a proceeding may only be appealed as of the date of the notice of the judgment terminating the proceeding or as of the date of the judgment if it was rendered at the hearing.

2014, c. 1, a. 211; 2023, c. 3, s. 6.

DIVISION V

STAY OF PROCEEDING

212. If the Court of Québec is seized of an application having the same juridical basis or raising the same issues of law and fact as an application instituted before the Superior Court, it may, even on its own initiative, stay the proceeding, provided this does not result in serious prejudice to the other parties.

A stay order is effective until the judgment rendered by the Superior Court has become final. The stay order may be revoked if new circumstances so warrant.

2014, c. 1, a. 212.

CHAPTER VI

INCIDENTAL PROCEEDINGS THAT TERMINATE PROCEEDING

DIVISION I

DISCONTINUANCE

213. Discontinuance by the plaintiff of the whole of a judicial application terminates the proceeding on the notification of a notice of discontinuance to the other parties and its filing with the court office. It restores matters to their former state, and is effective immediately if it takes place before the court and in the presence of the parties. The legal costs are borne by the plaintiff, subject to an agreement between the parties or a decision of the court.

2014, c. 1, a. 213.

214. If one of the plaintiffs in a joint application discontinues it, the other plaintiff may continue the proceeding alone. In such a case, the judicial application is amended accordingly and notified to the other parties, and the proceeding is continued in accordance with the rules applicable to any application.

2014, c. 1, a. 214.

DIVISION II

TENDER AND DEPOSIT

215. A party to a proceeding may make or renew a tender and confirm it in a judicial declaration, which is recorded.

If the tender is made by means of a letter of undertaking from a financial institution, a copy of the letter and proof that the letter was notified are filed in the record. If a sum of money or a security is tendered, it is deposited with a trust company, and the receipt for the deposit is filed in the record.

Unless the tender is conditional, the party to whom the tender is made may obtain the sum of money or security deposited, without prejudicing its claim to the balance.

2014, c. 1, a. 215.

216. For a deposit with a trust company to be valid, the trust company must be authorized to carry on trust company activities under the Trust Companies and Savings Companies Act (chapter S-29.02). The trust company must undertake to place the sum on deposit as a deposit of money within the meaning of the Deposit Institutions and Deposit Protection Act (chapter I-13.2.2) other than as a term deposit which would not be repayable at any time before maturity. The trust company must also undertake to remit the sum of money or security to the party to whom the tender is made on proof of performance of the obligation.

The document recording the undertakings of the trust company is filed with the court office.

2014, c. 1, a. 216; I.N. 2016-12-01; 2018, c. 23, ss. 736 and 811.

DIVISION III

ACQUIESCENCE IN APPLICATION

217. The defendant or the defendant's specially authorized mandatary may, at any stage of the proceeding, acquiesce, in whole or in part, in the application.

A declaration of acquiescence is filed with the court office and notified to the plaintiff. If applicable, the mandatary's special authorization must be attached.

2014, c. 1, a. 217.

218. If acquiescence in the application is unqualified, the special clerk renders judgment immediately.

If acquiescence in the application is qualified, the plaintiff must notify acceptance or refusal to the defendant within 15 days after notification of the declaration of acquiescence. If the plaintiff accepts, the special clerk renders judgment accordingly. If the plaintiff refuses, the proceeding continues, but the plaintiff may nevertheless obtain judgment for the amount specified in the declaration of acquiescence, in which case the proceeding continues only for the balance.

If the plaintiff notifies neither acceptance nor refusal, the plaintiff is presumed to have accepted the acquiescence with its qualifications. However, the court may relieve the plaintiff from the consequences of the default before judgment is rendered on the acquiescence.

2014, c. 1, a. 218.

219. If there are two or more defendants and only one or some of them file a declaration of acquiescence, the court may render judgment against the acquiescing defendants, on notification of a notice to all the parties. Alternatively, the court may choose to continue the proceeding and render a uniform judgment with respect to all the defendants, either because of the subject matter of the application or to avoid conflicting judgments.

2014, c. 1, a. 219.

DIVISION IV

SETTLEMENT

220. The parties may terminate the proceeding by making a transaction, whether they reach their agreement in or outside the presence of the court. In the latter case, they must file a notice of settlement with the court office without delay.

2014, c. 1, a. 220.

TITLE III

PRE-TRIAL DISCOVERY AND DISCLOSURE

CHAPTER I

PRE-TRIAL EXAMINATION

DIVISION I

GENERAL PROVISIONS

221. A pre-trial examination, whether written or oral, may bear on any fact that is relevant to the dispute and on the evidence supporting such facts; it may also be for documentary disclosure purposes. Pre-trial examinations may be conducted only if they are provided for in the case protocol and must be in compliance with the terms, number and length specified in the case protocol.

Other than the parties, the following may be examined:

(1) a representative, an agent or an employee of a party;

(2) in a judicial application in which a party's civil liability is at issue, the victim and any person involved in the injurious act or omission;

(3) a person for whom a party acts as administrator of the property of others;

(4) a person for whom a party acts as prête-nom or whose rights a party has acquired by transfer, subrogation or other similar title.

Any other person may be examined with their consent and that of the other party, or with the judge's authorization, subject to the conditions the judge determines. Neither a minor nor an incapable person of full age may be examined without the judge's authorization.

A judgment on an application relating to an undertaking concerning the disclosure of a document made for or at a pre-trial examination may be rendered on the face of the record.

2014, c. 1, a. 221; 2020, c. 29, s. 31.

222. When a party submits testimonial evidence by affidavit, another party may call the affiant to attend in order to be examined on that affidavit. The examination may pertain not only to evidence attested to in the affidavit but also to any other relevant fact. If the affiant fails to attend, the affidavit is rejected.

2014, c. 1, a. 222.

DIVISION II

WRITTEN EXAMINATION

223. A party may notify to the other party a written examination on facts relevant to the dispute, and require that other party to answer within a specified time, which cannot be shorter than 15 days or longer than one month. A party may also, after informing the other party, notify such an examination to any other person that may be examined.

The questions must be clear and specific, so that the absence of an answer can be taken as an admission, by the party or person examined, of the facts to which the questions pertain.

Any objection relating to the examination may be decided by the court on the face of the record.

The examination and the answers are filed in the court record by either of the parties.

2014, c. 1, a. 223; 2020, c. 29, s. 32.

224. The answers to a written examination are given in writing, under oath, and signed by the party or person examined. They must be direct, categorical and specific, failing which they may be rejected and the facts to which the questions pertain, held to be proved.

If the party is a legal person, a general or limited partnership, or an association or another group not endowed with juridical personality, the answers are given by an authorized director, officer or employee, unless they are determined by a special resolution of the legal person, partnership or association or group not endowed with juridical personality.

2014, c. 1, a. 224.

225. If the party or person examined fails to answer the questions asked, the facts on which the examination bears are held to be proved as far as that party or person is concerned.

Nevertheless, the court, for valid cause, may relieve the party or person examined from the default and allow them to answer, subject to the conditions it sees fit. The court may also ask any other questions considered necessary and relevant, which the party or person examined must answer, failing which the facts to which the questions pertain are also held to be proved.

2014, c. 1, a. 225.

DIVISION III

ORAL EXAMINATION

226. A party intending to conduct an oral pre-trial examination must inform the person it wishes to examine at least five days in advance, stating the reason why they are called as a witness and the nature, subject, time and place of the examination. If the parties have not reached an agreement on those points, the person is required to attend on the date and at the place specified in a subpoena, which must be served at least five days before the examination.

If the judicial application is founded on an injurious act or omission that is also an indictable offence, the necessary measures must be taken to ensure that the person who is a victim is not, without having consented to it, confronted with the alleged or confirmed perpetrator.

2014, c. 1, a. 226; 2021, c. 13, s. 175.

227. The deposition of the person examined is subject to the same rules as testimony given at trial; it is recorded, unless waived by the parties.

The deposition forms part of each party's file, and the party that conducted the examination may produce all or excerpts of it in evidence or not produce it at all. Another party may ask the court to order the party to produce any other excerpt that cannot be dissociated from an excerpt that has already been produced.

2014, c. 1, a. 227; I.N. 2016-12-01.

228. Before a pre-trial examination is held, the parties may submit the objections they anticipate to a judge for a decision or for directives as to the conduct of the examination.

If the objections raised during the examination pertain to the fact that the person examined cannot be compelled, to fundamental rights or to an issue raising a substantial and legitimate interest, the person may refrain from answering. Such objections must be presented before the court within five days for a decision.

Other objections raised during the examination, including objections based on relevance, do not prevent it from continuing, the witness being required to answer. Such objections are recorded for a decision by the court at trial unless they can be submitted to the court for an immediate decision.

The judgment on an objection may be rendered on the face of the record.

2014, c. 1, a. 228; 2020, c. 29, s. 33.

229. No pre-trial examination is permitted where the amount claimed or the value of the property claimed in the judicial application is less than $50,000.

No pre-trial examination may last more than five hours, or in family matters or cases where the value in dispute is less than $100,000, three hours. In the course of the examination, the parties may agree to extend its length from five to seven hours or from three to four hours. Any other extension requires the authorization of the court.

2014, c. 1, a. 229; 2023, c. 3, s. 7.

230. The court, on request, may terminate an examination that it considers excessive or unnecessary and, on doing so, rule on the legal costs.

2014, c. 1, a. 230.

CHAPTER II

EXPERT EVIDENCE

DIVISION I

WHEN EXPERT EVIDENCE MAY BE USED

231. The purpose of expert evidence provided by a qualified expert in the area or matter concerned is to enlighten the court and assist it in assessing evidence.

To provide expert evidence is to give an expert opinion, taking into consideration the facts relating to the dispute, on particulars relating to a person's personal integrity, status or capacity or adaptation to a given set of circumstances, or on factual or real evidence; to determine or audit accounts or other data; to give an expert opinion on the liquidation or partition of property; or to ascertain the state or situation of certain premises or things.

2014, c. 1, a. 231.

232. The parties agree on the need for expert evidence at the case protocol stage or, with the authorization of the court, at any time before the case is ready for trial.

The parties cannot seek more than one expert opinion, whether joint or not, per area or matter of expertise, unless the court authorizes otherwise given the complexity or importance of the case or the state of knowledge in the area or matter concerned.

2014, c. 1, a. 232.

233. In the case of joint expert evidence, the parties determine together what parameters must be covered, what expert is to be appointed, what fee is to be paid and how it is to be paid. If the parties fail to agree on any of those points, the matter is decided by the court.

A joint expert can require that the expert fee and disbursements be deposited at the court office before submission of the report. If such a deposit has not been required, the joint expert has a right of action against all the parties to the proceeding, who are solidarily liable for the amount due.

2014, c. 1, a. 233.

234. At any stage of a proceeding, if it considers that expert evidence is necessary in order to decide the dispute, the court, even on its own initiative, may appoint one or more qualified experts to provide such evidence. The court's decision defines the expert's mission, gives the necessary instructions as to how it is to be carried out, sets the time limit within which the expert must submit a report and rules on the expert fee and its payment. The decision is notified to the expert without delay.

2014, c. 1, a. 234.

DIVISION II

EXPERTS' DUTIES AND POWERS

235. Experts are required to give an opinion on the points submitted to them or, in the case of bailiffs, to make an ascertainment.

Experts are required, on request, to provide the court and the parties with details on their professional qualifications, the progress of the work and the instructions received from a party; they are also required to comply with the time limits given to them. They may, if necessary to carry out their mission, request directives from the court; such a request is notified to the parties.

Experts act under their professional oath. If an expert has not sworn a professional oath, the parties or the court may require that the expert be sworn in. In addition, experts must sign a declaration regarding the carrying out of their mission, corresponding to the model established by the Minister of Justice, and attach it to their report.

2014, c. 1, a. 235.

236. Court-appointed experts act under the court's authority to gather the evidence required to carry out their mission. They may examine any document or thing, visit any premises and, with the authorization of the court, take testimony under oath. They must preserve such testimony and certify its origin and integrity.

Experts are required to give the parties at least five days' notice of when and where their operations are to begin.

2014, c. 1, a. 236.

237. An expert who does not have the required qualifications or who is seriously remiss in carrying out their mission may be replaced or disavowed, including at a case management conference, on the court's initiative or on a party's request.

2014, c. 1, a. 237.

DIVISION III

EXPERT REPORT

238. An expert report must be brief but provide sufficient details to enable the court to make its own assessment of the facts set out in the report and of the reasoning that led to the conclusions drawn by the expert. It must mention the analytical methodology used.

Any testimony taken by the expert is attached to the report and forms part of the evidence.

The expert's conclusions are not binding on the court or on the parties, unless the parties declare that they accept them.

2014, c. 1, a. 238.

239. A joint or court-appointed expert submits an operations report, with conclusions, to the parties and files a copy with the court office before the expiry of the time limit given.

An expert appointed by one party submits the report to the party, which, if it intends to use the report, must disclose it to the other parties and file it in the court record within the prescribed time limits for disclosure of evidence.

2014, c. 1, a. 239.

240. After the report has been filed but before the trial begins, the joint or court-appointed expert must, if the court so requires or on the parties' request, provide clarifications on certain aspects of the report and meet the parties to discuss the expert's opinions ahead of the trial.

If conflicting expert reports are filed, the parties may call the experts to a meeting so that they may reconcile their opinions, identify the points on which they differ and, if necessary, prepare an additional report on those points. At any stage of the proceeding, the court, even on its own initiative, may order the experts to meet and file an additional report within a specified time.

2014, c. 1, a. 240.

241. Before the trial begins, a party may apply for the dismissal of an expert report on the grounds of irregularity, substantial error or bias, in which case the application must be notified to the other parties within 10 days after the party becomes aware of the grounds for dismissing the report.

If the court considers the application well-founded, it orders that the report be corrected or that it be withdrawn. In the latter case, the court may allow other expert evidence to be appointed. It may also, to the extent it specifies, reduce the amount of the fee payable to the expert or order that the expert repay any amount already received.

2014, c. 1, a. 241; I.N. 2016-12-01.

DIVISION IV

SPECIAL RULES APPLICABLE TO PHYSICAL, MENTAL OR PSYCHOSOCIAL EXAMINATION

242. A party, the person who is the subject of an application relating to personal integrity, status or capacity, or the person who suffered the injury having given rise to the dispute cannot be required to undergo a physical or mental examination unless their physical or mental condition must be considered in order to rule on the matter. Even in such a case, the examination must be warranted given the nature, complexity and purpose of the judicial application.

A psychosocial examination may be only requested in cases where personal integrity, status or capacity is at issue and if such an examination is necessary in order to rule on the matter. In family matters, a psychosocial examination cannot be conducted unless the person concerned consents to it or, in cases where the parents differ on the advisability of themselves or their child being subjected to such an examination, the court orders it.

2014, c. 1, a. 242.

243. A party that requires a physical or mental examination or requests a psychosocial examination must notify at least 10 days' notice of the place, date and time of the examination to the person concerned and the other parties' lawyers. The party must give the person the name of the expert responsible for conducting the

examination and pay to the person in advance the indemnities and allowances payable to a witness, unless the person is otherwise compensated.

The person, at their own expense, may be accompanied during the examination by the expert of their choice.

2014, c. 1, a. 243.

244. The court can, on an application, stop an examination from taking place or change the conditions of an examination, despite an agreement between the parties, if it considers it appropriate in order to protect the person's right to personal integrity and respect.

If it considers it necessary in order to decide the matter, the court, on an application, may order the person to undergo another examination by a court-appointed expert. The place, date, time and conditions of the examination are specified in the order. The examination is conducted at the expense of the party that applied for it.

2014, c. 1, a. 244.

245. If necessary in order to determine the physical or mental condition of a party or of the person who is the subject of the application or who suffered the injury having given rise to the dispute, the court may order the health and social services institution holding the record of the person who is to undergo an examination or whose death has given rise to an application based on civil liability to disclose that record to a party and allow the party to make a copy of the information that is relevant as evidence.

2014, c. 1, a. 245.

CHAPTER III

DISCLOSURE AND FILING OF EXHIBITS AND OTHER EVIDENCE

DIVISION I

GENERAL PROVISIONS

246. Unless otherwise determined by the court or unless the exhibits have already been disclosed, the procedure and the time limit for the disclosure of exhibits and other evidence between the parties must be set out in the case protocol in compliance with the rules of this chapter.

If the case protocol sets out no such procedure or time limit or if no case protocol is required, a party, on being informed that another party intends to use an exhibit or other evidence, may, without formality, request a copy of, or some other form of access to, the exhibit or other evidence. If the request is not complied with within 10 days, the court issues such orders as are appropriate.

2014, c. 1, a. 246; 2020, c. 29, s. 34.

DIVISION II

TIME LIMITS FOR DISCLOSURE AND FILING

247. The exhibits in support of a judicial application must be listed in the summons to the defendant; those in support of a pleading must be listed in the pleading or in a notice attached to it.

No notice is required if copies of the exhibits are delivered to the other parties when the application or the pleading is notified to them.

2014, c. 1, a. 247.

248. A party in possession of evidence it intends to use at trial must send it to the other parties not later than with the declaration accompanying the request for setting down for trial. The party is dispensed from doing so if the evidence is an exhibit in support of a pleading or if the case protocol provides otherwise. In any other case, the evidence must be sent to the other parties within 30 days after the order to set down for trial is issued or the date of the trial is set, unless the court determines another time limit.

A party that has failed to so disclose evidence cannot produce it at trial except with the authorization of the court.

2014, c. 1, a. 248; I.N. 2016-12-01.

249. A party that is unable, because of the circumstances or the nature of an exhibit or other evidence, to deliver a copy to a party that requested one is required to provide some other form of access to the exhibit or other evidence.

If the parties cannot agree, they may ask the judge to determine the procedure and the time limit for such disclosure.

2014, c. 1, a. 249.

250. Unless they have already been filed with the court office for the purposes of the pre-trial conference, exhibits and other evidence must be filed by the parties at least 15 days before the scheduled trial date, or at least three days before that date if the trial is to be held within 15 days. However, in all instances, the court may require that exhibits and other evidence be delivered to it within the time it specifies.

When a case proceeds following the defendant's default, exhibits and other evidence must be filed with the court office with the request for setting down for judgment.

2014, c. 1, a. 250.

DIVISION III

DOCUMENT OR REAL EVIDENCE IN POSSESSION OF PARTY OR THIRD PERSON

251. A party in possession of real evidence is required, on request, to present it to the other parties or, subject to the conditions agreed with them, to submit it to an expert; the party is also required to preserve, until the end of the trial, the real evidence or, if applicable, a suitable representation that shows its current state.

A third person holding a document relating to a dispute or in possession of real evidence is required, if so ordered by the court, to disclose it, present it to the parties, submit it to an expert or preserve it.

2014, c. 1, a. 251.

DIVISION IV

APPLICATIONS IN COURSE OF PROCEEDING

252. The exhibits and other evidence used by a party in support of an application in the course of a proceeding must be disclosed to the other party as soon as possible or, in the case of real evidence, made available to the other party as soon as possible before the hearing. Otherwise, the exhibits and other evidence cannot be produced except with the authorization of the court.

2014, c. 1, a. 252.

CHAPTER IV

PRE-TRIAL DISCOVERY

DIVISION I

APPLICATIONS PRIOR TO PROCEEDING

253. A person who expects to become a party to a dispute and has reason to apprehend that some necessary evidence might be lost or become difficult to produce may examine witnesses whom the person fears may be absent, may die or may become incapacitated, or have a thing or property whose state may affect the outcome of the dispute inspected. The person must obtain the consent of the prospective plaintiff or defendant or the authorization of the court.

A person who carries out work on an immovable that might damage a neighbouring immovable may apply for an inspection of the neighbouring immovable without being required to show that a dispute is likely.

2014, c. 1, a. 253.

254. The application to the court must, in addition to stating the reasons for the applicant's apprehension, include the names and contact information of all interested persons and of the witnesses to be heard, the facts that suggest that a dispute may arise and a description of the nature of the potential dispute, the facts to be dealt with by the examination, the description and situation of the thing or property to be inspected, the purpose of the inspection, and the name and contact information of the person who is to make the inspection.

The application is presented before the court before which the potential dispute could be brought, as if it were an application in the course of a proceeding.

The application must be notified, at least five days before its scheduled presentation date, to the interested persons and to any third person holding the thing or property to be inspected.

2014, c. 1, a. 254; I.N. 2016-12-01.

255. If the application is granted, the parties agree on where and when the witnesses will be heard or the thing or property inspected; how the thing or property will be inspected is determined by the parties unless already determined by the decision.

The discovery costs are borne by the applicant. However, if the evidence is subsequently used in a proceeding, the cost of the authorized depositions and expert reports forms part of the legal costs.

2014, c. 1, a. 255.

256. The depositions and expert reports are kept by each of the parties for use by any of them in the proceeding in anticipation of which the discovery was conducted. If a proceeding is commenced, the evidence gathered during discovery does not prevent the witnesses or experts from being called to be examined anew, nor does it adversely affect any grounds of objection that a party may later wish to raise against the actual admissibility of the evidence so gathered.

2014, c. 1, a. 256.

DIVISION II

PRE-TRIAL APPLICATIONS

257. Before the trial begins, a party to the proceeding, with the authorization of the court, may examine witnesses whom the party fears may be absent, may die or may become incapacitated, or have a thing or

property which may be lost and whose state may affect the outcome of the dispute inspected by a person of the party's choice.

If the court grants its authorization, the parties agree on where and when the witnesses will be heard or the thing or property inspected; in the latter case, how the thing or property is to be inspected is determined by the parties unless already determined by the decision. The discovery costs form part of the legal costs if the evidence is filed in the court record.

The depositions and expert reports do not prevent the witnesses or experts from being called to be examined anew, nor do they adversely affect any grounds of objection that a party may later wish to raise against the actual admissibility of the evidence so gathered.

2014, c. 1, a. 257.

CHAPTER V

CONTESTATION OF EVIDENCE

DIVISION I

CONTESTATION OF AUTHENTIC ACT

258. In the course of a proceeding, a party may ask that an authentic act intended to be used at trial by that party or another party or already filed in the record be declared a forgery.

Such an application may be made at any time before judgment, but after evidence is closed, it may be granted only if it is shown that the party had no earlier knowledge of the forgery.

2014, c. 1, a. 258.

259. Before raising the allegation of forgery, the party must notify a notice to the other parties, asking them to declare whether or not they intend to use the contested act.

If the other parties do not respond within 10 days or if they declare that they do not intend to use the act, it cannot be produced at trial and, if already filed, is removed from the record. If the other parties declare that they intend to use the act, the party raising the allegation of forgery presents its application before the court for a ruling.

The grounds in support of the allegation of forgery must be set out in an affidavit notified to all the parties and to the public officer who is in possession of the original of the act.

2014, c. 1, a. 259.

260. If the original of the act alleged to be a forgery has not already been filed in the record, the court, on request, may order the person who has custody of the original to file it with the court office within a specified time. If the custodian cannot surrender the original, the court may instead order that an authentic copy of the original be filed; the court may nevertheless order the filing of the original if it judges it essential.

The judgment ruling on the allegation of forgery also determines, if necessary, to whom the original is to be delivered.

2014, c. 1, a. 260.

DIVISION II

CONTESTATION OF CERTIFICATE

261. A party may ask that a certificate issued by a bailiff or other court officer, or any person authorized to make a return of notification, be declared false or inaccurate.

However, the court may authorize the correction of errors in the certificate. The parties may, at any time before a decision is rendered, give the court officer their consent to a correction.

2014, c. 1, a. 261.

DIVISION III

CONTESTATION OF OTHER DOCUMENT

262. If the formalities required to establish the validity of an exhibit or other document were not observed, a party may, not later than at the time of setting down for trial and judgment, ask that the exhibit or document not be admitted in evidence. The party may also do so if it disowns the exhibit or document, does not recognize its origin or contests the integrity of the information it contains.

A party that intends to contest the origin or integrity of a document must specify, in an affidavit, the facts and grounds that support the party's claim and make it probable.

2014, c. 1, a. 262.

263. If the contested document is a semi-authentic act and only a copy has been filed in the record, the party that intends to use the document is required to prove its semi-authentic character. The court may direct the person who has custody of the original to deliver it to the court office, which must in return provide a certified copy, at the contesting party's expense. If the custodian cannot surrender the original, the court may order that a certified copy be filed with the court office within a specified time.

2014, c. 1, a. 263.

CHAPTER VI

ADMISSION OF AUTHENTICITY OF EVIDENCE

264. A party may give another party a formal notice to admit the origin of a document or the integrity of the information it contains.

The formal notice must be notified at least 30 days before the trial. If the document or other evidence has not already been disclosed, a suitable representation of it or, in the absence of such a representation, particulars on how to access it must be attached.

The party having been given the formal notice admits or denies the origin or integrity of the evidence in an affidavit giving reasons, and notifies the affidavit to the other party within 10 days.

Failure to respond to the formal notice is deemed an admission of the origin and integrity of the evidence, but not of the truth of its contents.

2014, c. 1, a. 264.

TITLE IV

TRIAL

CHAPTER I

CONDUCT OF TRIAL

265. A trial consists of the evidence stage, followed by oral argument, in which parties make their addresses to the court.

During the evidence stage, the party on which the burden of proof lies examines its witnesses first; the other party then submits its evidence, after which the first party may submit evidence in rebuttal. The court may allow the examination of other witnesses.

After evidence is closed, the party on which the burden of proof lies presents its arguments first, followed by the other party. The first party may reply and, if the reply raises any new point of law, the other party may answer. No other address to the court may be made without leave of the court.

If the circumstances so require, the court may adjourn a trial subject to the conditions it determines. In such a case, it immediately sets another date or asks the court clerk to set the case down again for trial so that a new date may be set.

2014, c. 1, a. 265.

266. If, on the day of the trial, a party does not produce witnesses or fails to justify the absence of its witnesses, its evidence is declared closed.

However, if the party proves that it has been diligent and shows that the absent witness is necessary and that the witness's absence is not due to any contrivance on its part, the court may adjourn the trial. The adjournment can be avoided if the other party consents to the party stating under oath the facts the defaulting witness would have related, and either admits the truth of those facts or admits that the witness would have testified to those facts.

2014, c. 1, a. 266.

267. During the evidence stage, the court may issue any appropriate order allowing it to inspect the premises in order to verify disputed facts and make the observations it considers necessary in order to resolve the dispute; the court may instead ask a bailiff to ascertain the state or condition of certain premises or things.

2014, c. 1, a. 267.

268. At any time before judgment, the court may draw the parties' attention to any deficiency in the proof or procedure and authorize the parties to remedy it, subject to the conditions it determines.

2014, c. 1, a. 268; I.N. 2016-12-01.

CHAPTER II

EVIDENCE STAGE OF TRIAL

DIVISION I

CALLING OF WITNESSES

269. Witnesses are called to attend at court by a subpoena issued by a judge, a court clerk acting on a party's request or a lawyer.

They must be called at least 10 days before the time at which they are scheduled to attend at court, unless there are urgent circumstances and the judge or court clerk shortens the notification period. However, the notification period cannot be shortened to less than 24 hours. The decision to shorten the notification period must be recorded on the subpoena.

A witness who is confined in an institution governed by health services and social services legislation or held in a detention centre or a penitentiary is called to attend at court to testify by an order addressed to the director or the jailer by a judge or a court clerk.

2014, c. 1, a. 269.

270. Witnesses may be called to give an account of facts of which they have personal knowledge, to give an opinion as an expert or to produce a document or other evidence.

Notaries and land surveyors cannot be called for the sole purpose of producing an authentic copy of an act executed en minute, unless the document has been alleged to be a forgery. Bailiffs cannot be called to testify about facts or admissions they may have become aware of in the course of notifying a pleading.

2014, c. 1, a. 270.

271. A subpoena must state the nature of the application, specify where and when the witness is to attend at court and mention that witnesses have the right to request an advance on any indemnities and allowances to which they may be entitled.

The subpoena must be in keeping with the model established by the Minister of Justice and provide information on such matters as the role, rights and duties of witnesses and the consequences incurred by witnesses who fail to attend.

2014, c. 1, a. 271.

272. Any person present at a hearing may be required to testify as if under subpoena. A person cannot refuse to answer questions under pretext of not having received an advance for expenses.

2014, c. 1, a. 272.

DIVISION II

COMPENSATION OF WITNESSES

273. A party that calls a witness, other than another party, sends with the subpoena an advance, covering the first day of attendance at court, on the loss of time indemnity and the travel, meal and overnight accommodation allowances prescribed by government regulation. The calling party is dispensed from this obligation for expenses which it covers directly or for which the witness is otherwise compensated.

2014, c. 1, a. 273.

274. A person who has been called and has received the prescribed advance is required to attend at court under pain of being compelled.

If the person fails to attend and the court considers that their testimony would be useful, it may order them to pay all or part of the costs caused by the failure to attend and issue a warrant for witness, which is executed by a bailiff.

The person may be held in custody under the warrant until they testify or are released subject to conditions determined by the court. Examination of any witness held in custody must begin without delay.

2014, c. 1, a. 274; 2020, c. 12, s. 60.

275. A witness entitled to an indemnity and allowances may pursue payment of the amount owed them against the calling party. A certificate of the court clerk attesting to the witness's attendance and to the amount due to them is equivalent to an immediately enforceable judgment.

2014, c. 1, a. 275.

DIVISION III

HEARING OF WITNESSES

276. All persons are presumed competent to testify and may be compelled to do so. However, persons who, because of their young age or physical or mental condition, are unable to relate the facts of which they have knowledge are not competent to testify.

2014, c. 1, a. 276; I.N. 2016-12-01.

277. Before testifying, witnesses must state their name and place of residence and swear under oath to tell the truth, the whole truth and nothing but the truth. However, if the disclosure of their address gives cause to fear for their safety, the court may dispense them from disclosing it and issue such orders as are appropriate.

A refusal to take the oath constitutes a refusal to testify; if it persists, it constitutes contempt of court.

2014, c. 1, a. 277.

278. Witnesses are entitled to the protection of the court against any intimidation tactics while they are testifying and against any abusive examination.

The court may, on application or on its own initiative, prevent an unrepresented party from examining or cross-examining the other party or a child, where the unrepresented party has been indicted or is subject to an order, an undertaking or a recognizance under the Criminal Code (R.S.C. 1985, c. C-46) concerning that other party or that child in relation to family violence, which includes spousal violence, or to sexual violence, or where the unrepresented party is subject to a civil protection order or to an application, agreement or decision relating to youth protection also concerning that other party or that child or where the court considers that such a context of violence exists. In such a case, the court orders that a lawyer be designated to conduct the examination or cross-examination.

2014, c. 1, a. 278; 2022, c. 22, s. 141.

279. In any defended proceeding, the witnesses are examined at the hearing, the other parties being present or having been duly called.

A party may request that witnesses testify without knowledge of the testimony given by other witnesses. However, barring exceptional circumstances, no such request may be made in the case of expert witnesses.

A witness who has been examined before the trial may be examined anew during the trial on a party's request.

If it is necessary to examine a witness at a distance, the technological means used must allow the witness to be identified, heard and seen live. The court may however decide, after consulting the parties, to hear a witness without the witness being seen.

2014, c. 1, a. 279.

280. Witnesses are examined by the calling party or that party's lawyer.

Questions must pertain only to the facts relevant to the dispute. They cannot be put in such a way as to suggest the desired answer; however, a leading question will be allowed if the witness is clearly trying to elude a question or to favour another party or, being a party, is adverse in interest to the examining party.

When the party has finished examining a witness it has called, any other party adverse in interest may cross-examine the witness on any fact relevant to the dispute and in any manner show cause for rebutting the witness's testimony.

The witness may be called again by the calling party, either to be examined on new facts revealed on cross-examination or to explain answers to the questions asked by another party.

Subject to the rules of evidence, the court may ask the witness any question it considers useful.

2014, c. 1, a. 280.

281. The party that called a witness may attack the credibility of the witness's testimony by proving the opposite through other witnesses. With leave of the court, the party may also do so by proving that the witness made previous statements which are inconsistent with their present testimony, provided the witness is first questioned about this.

2014, c. 1, a. 281.

282. Witnesses cannot be compelled to disclose any communication that may have been made to them by their spouse during their community of life.

2014, c. 1, a. 282.

283. Public servants called as witnesses cannot, given their duty of discretion, be compelled to disclose information obtained in the exercise of their functions if disclosing it would be contrary to the public interest.

The public interest reasons must be set out, for consideration by the court, in an affidavit by the minister or deputy minister to whom the public servant answers.

2014, c. 1, a. 283.

284. Except to the extent provided for in section 9 of the Charter of human rights and freedoms (chapter C-12), witnesses cannot be compelled if their testimony would violate professional secrecy. The court, on its own initiative, ensures that professional secrecy is respected.

2014, c. 1, a. 284.

285. Witnesses cannot refuse to answer a question on the grounds that the answer may tend to incriminate them or expose them to a judicial proceeding of any kind; their answers cannot be used against them, except if they are prosecuted for perjury or for the giving of contradictory testimony.

2014, c. 1, a. 285.

286. A witness who is in possession of a document or other evidence that is relevant to the dispute is required to produce it on request.

A copy of the evidence made, and certified as being true to the original, by the court clerk, has the same probative force as the original.

2014, c. 1, a. 286.

287. The court may order a party to produce, at the appropriate time, in the courtroom or in any other suitable place, any real evidence in its possession that a witness is called on to identify. If the party does not

obey the order, the evidence is deemed identified, unless the court relieves the party from the default before the judgment is rendered.

2014, c. 1, a. 287.

288. A witness who refuses to answer a question without valid cause is guilty of contempt of court, as is a witness who is in possession of relevant evidence and refuses to produce it or to make it available to the court.

2014, c. 1, a. 288.

289. A witness cannot withdraw without leave of the court. If the deposition cannot be completed on the first day of attendance at court, the witness is required to re-attend on the next working day or at any other time specified by the court.

A witness who withdraws without leave or fails to re-attend is subject to the same sanctions as a witness who fails to attend.

2014, c. 1, a. 289.

DIVISION IV

HEARING OF MINOR OR INCAPABLE PERSON OF FULL AGE

290. When the court is to hear a minor or an incapable person of full age, the minor or person may be accompanied by someone capable of providing assistance or reassurance.

2014, c. 1, a. 290.

291. The judge may examine a minor or an incapable person of full age in the courtroom or in chambers. If it is in the interests of an incapable person of full age to do so, the court, after advising the parties, may examine the person where they reside or are confined, or in any other suitable place. If the circumstances so require, the judge, after advising the parties, may examine the minor or person outside their presence.

The examination by a judge in chambers, or elsewhere outside the courtroom, is conducted in the presence of the court clerk and, if the minor or person is represented by a lawyer, the person's lawyer. The parties' lawyers attend the examination unless the judge decides to examine the minor or person outside their presence, in which case the judge's decision must give reasons.

The deposition is recorded and sent to the parties on request.

2014, c. 1, a. 291.

DIVISION V

TESTIMONY BY AFFIDAVIT

292. A party may produce as testimony, besides a statement admissible under the Book on Evidence in the Civil Code, the affidavit, including a bailiff's ascertainment, provided the affidavit is only designed to prove a fact that is secondary to the dispute and has been notified to the other parties beforehand.

Any other party may, before the scheduled trial date, require the witness's presence at the evidence stage of the trial or obtain the authorization of the court to examine the witness outside the presence of the court.

2014, c. 1, a. 292.

DIVISION VI

EXPERT TESTIMONY

293. The report of an expert stands in lieu of their testimony. To be admissible, the expert report must have been disclosed to the parties and filed in the record within the time limits for disclosure and filing of evidence. Otherwise, it may be admitted only if it was made available to the parties by another means in a timely manner so that they could react and determine whether the expert's presence might be useful. It may however be admitted outside such time frames with leave of the court.

2014, c. 1, a. 293.

294. Each of the parties may examine an expert that it has appointed, a joint expert or a court-appointed expert to obtain clarifications on points covered in the expert report or to obtain the expert's opinion on new evidence introduced during the trial; they may also examine such an expert for other purposes, with the authorization of the court. A party adverse in interest may cross-examine an expert appointed by another party.

The parties cannot, however, raise a ground of irregularity, substantial error or bias against the expert report unless they were unable, despite their diligence, to know of the irregularity, substantial error or bias before the trial.

2014, c. 1, a. 294; I.N. 2016-12-01.

DIVISION VII

TESTIMONY GIVEN OUTSIDE PRESENCE OF COURT

295. With leave of the court or if the parties so agree, an examination may be conducted outside the presence of the court at the place and time determined by the court or jointly by the parties.

The deposition of the witness is heard, all parties being present or having been duly called. It is recorded and filed in the record and has the same force and effect as if it had been given before the court.

2014, c. 1, a. 295.

296. If an illness or a disability prevents a witness from attending the hearing, the court, even on its own initiative, may order that the witness be examined at a distance using a technological means, or appoint a commissioner to take the witness's testimony. The court may do likewise in order to avoid unnecessary travel by a witness living in a remote location.

If the court chooses to appoint a commissioner, it gives the commissioner the necessary instructions; it also sets the time within which the examination is to be conducted and the commissioner's report is to be filed, and determines the amount to be advanced to the commissioner to cover costs. The examination is taken down in writing or recorded, and certified by the commissioner; the commissioner is authorized to make copies of any documents the witness exhibits but is not willing to surrender. The examination together with the exhibits produced by the witness are disclosed to the parties and to the court. A party that wishes to be represented at the examination must advise the commissioner in sufficient time and designate a representative, who must be given five days' notice of the date and place of the examination.

2014, c. 1, a. 296.

297. Objections raised during the examination of a witness outside the presence of the court do not prevent the examination from continuing, the witness being required to answer. However, if such objections pertain to the fact that the witness cannot be compelled, to fundamental rights or to an issue raising a substantial and

legitimate interest, the witness may refrain from answering. In all such cases, the objections are submitted to a judge as soon as possible for a decision.

2014, c. 1, a. 297.

DIVISION VIII

INTERPRETATION SERVICES

298. To facilitate the examination of a witness, the court may retain the services of an interpreter.

The interpreter's remuneration is borne by the Minister of Justice if one of the parties is a beneficiary, in the judicial districts of Abitibi and Roberval, under the agreement approved by the Act approving the Agreement concerning James Bay and Northern Québec (chapter C-67) or, in the judicial district of Mingan, under the agreement approved by the Act approving the Northeastern Québec Agreement (chapter C-67.1).

2014, c. 1, a. 298.

299. A witness who is unable to hear or to speak by reason of a disability may take the oath and testify by any means enabling them to express themselves. If such means are unavailable, the witness may be assisted by an interpreter, whose remuneration is borne by the Minister of Justice.

2014, c. 1, a. 299.

DIVISION IX

PRESERVATION OF TESTIMONY

300. Depositions by witnesses are recorded so that the testimony can be preserved and reproduced.

The Minister of Justice provides the court with the necessary recording systems. However, if an examination is conducted elsewhere than at the court, in a place chosen by the parties, it is up to the parties to call on the services of an official stenographer or, if needed, to agree on an appropriate method of recording to ensure the integrity of the deposition.

Any transcript of an examination that is filed with the court must be made by an official stenographer.

2014, c. 1, a. 300.

301. When the services of an official stenographer are called on, the stenographer certifies, under their oath of office, the correctness of the stenographic notes or transcript. At the beginning of each deposition, the stenographer enters the name of the judge presiding at the trial and the name of the witness. The stenographer records objections and decisions, and preserves the stenographic notes as set out in the applicable regulations.

In cases under appeal, depositions are transcribed if a party requires their transcription. They are also transcribed if the judge so orders, in which case the parties advance the cost of transcribing the depositions of their respective witnesses.

2014, c. 1, a. 301.

BOOK III

PROCEDURE IN NON-CONTENTIOUS PROCEEDINGS

I.N. 2016-12-01.

TITLE I

GENERAL PROVISIONS

302. In the absence of a dispute, applications are dealt with according to the procedure for non-contentious proceedings set out in this Book.

This is the case when the law requires, because of the nature of an act or the applicant's capacity, that an application be submitted to the courts so that they may approve or authorize an act, give a person authority to act, approve or homologate a decision or an act, or verify a fact or a legal situation and determine its consequences, or whenever the law requires that an application be so dealt with.

2014, c. 1, a. 302.

303. Applications dealt with according to the procedure for non-contentious proceedings include those relating to

(1) authorization to consent to care that is not required by the state of health of a person under 14 years of age or incapable of giving consent, or authorization to consent to the alienation of a part of the body of a minor or an incapable person of full age;

(2) a declaratory judgment of death, the probate of a will, letters of verification or, in succession matters, the liquidation or the partition of a succession;

(3) the alteration of the register of civil status;

(4) tutorship to an absentee, to a minor or to a person of full age, the emancipation of a minor, a protection mandate or temporary representation of an incapable person of full age;

(5) the appointment, designation or replacement of any person that is required by law to be appointed, designated or replaced by the court on its own initiative or in the absence of an agreement between the interested parties, and applications of a similar nature relating to tutorship to a minor, tutorship to a person of full age, a protection mandate, temporary representation of an incapable person of full age, a succession or the administration of the property of others;

(6) the placement and adoption of a child and the assignment of a name to the child;

(6.1) the filiation of a child born of a parental project involving surrogacy;

(7) a draft agreement that settles the consequences of a separation from bed and board, a divorce or the dissolution of a civil union;

(8) the administration of undivided property, of a trust or of the property of others;

(9) the acquisition by prescription of ownership in an immovable;

(10) registration in the land register or the register of personal and movable real rights or the correction, reduction or cancellation of an entry in either register; and

(11) the issue of a notarial act or the replacement or reconstitution of a writing.

Any application for an exemption from the obligation to pay support and arrears to the Minister of Revenue, or for the suspension of that obligation, if the parties satisfy the conditions of section 3 or 3.1 of the Act to facilitate the payment of support (chapter P-2.2), is also dealt with according to that procedure.

2014, c. 1, a. 303; I.N. 2016-12-01; 2020, c. 11, s. 103; 2023, c. 13, s. 49.

304. Non-contentious applications, whether presented before a court or a notary, are conducted according to the procedure set out in this Book, subject to the special rules for the conduct of certain civil matters set out in Book V.

However, as soon as an application is contested, it is referred to the court to be continued according to the procedure set out in Book II. Depending on the readiness of the case and on how much time has elapsed since the application was brought, the court gives the parties the instructions they need to establish a case protocol, unless the court exempts the parties from doing so and subjects the furtherance of the case to other conditions or immediately schedules a case management conference or the trial.

2014, c. 1, a. 304.

305. In dealing with a non-contentious case relating to personal integrity, status or capacity, the court or the notary must act in the best interests of the person concerned while protecting the person's rights and safeguarding the person's autonomy, taking into account the person's wishes and preferences.

2014, c. 1, a. 305; 2020, c. 11, s. 104.

TITLE II

RULES APPLICABLE BEFORE COURT

CHAPTER I

APPLICATION

306. A non-contentious application is accompanied by a notice informing the person concerned and the interested persons of the place, date and time it is to be presented before the competent court. The notice must also include a list of the exhibits in support of the application, and inform the recipients that they are available, unless they are confidential.

2014, c. 1, a. 306.

307. An application for authorization to sell property belonging to a minor, a person of full age under tutorship, an absentee or a person whose property is administered by another must set out the reasons for the application, describe the property and propose a method of sale, such as by agreement, through a public call for tenders or an invitation to tender, or by auction, as well as the name of a person who could effect the sale. An appraisal of the property by an expert and, if applicable, the opinion of the tutorship council, must be attached to the application. The application may suggest a commercially reasonable reserve price.

2014, c. 1, a. 307; I.N. 2016-12-01; 2020, c. 11, s. 254.

CHAPTER II

PRESENTATION

308. The application is presented before the court on the date specified in the accompanying notice, unless the applicant and the person concerned, before that date, agreed with the court office on another presentation date.

The application cannot be presented less than 10 days nor more than two months after it was notified.

2014, c. 1, a. 308.

309. The court ascertains that the application presented before it has been served on the person concerned and notified to the interested persons, and that the necessary opinions, reports and expert reports have been filed in the record.

The court may order that the application be notified to any person whom it considers to have an interest, call a meeting of relatives, persons connected by marriage or civil union, or friends, or request the opinion of a tutorship council; it may also require the complementary opinions, reports or expert reports it considers necessary and, if applicable, order an appraisal by an independent expert designated by the court if it has reason to believe the appraisal attached to the application does not reflect the value of the property. The court may also authorize an interested person to produce evidence in support of the view that person intends to assert. The court may take any other appropriate case management measure.

The applicant, the person concerned or another interested person may make their proof by affidavit, by testimony or by means of documents or real evidence. The evidence so submitted may pertain to any relevant fact, even one that has arisen since the application was instituted.

2014, c. 1, a. 309; I.N. 2016-12-01.

Note *See the Regulation to establish a pilot project relating to digital transformation of the administration of justice (chapter C-25.01, r. 6.2).*

310. The court may invite interested persons who are present to make informal representations that might enlighten the court in making its decision.

If such representations could constitute an actual contestation of the merits of the application, the court, after verifying that the person who made them intends to contest the application, orders a postponement of the case for it to be dealt with according to the procedure for contentious proceedings, subject to the conditions it determines.

2014, c. 1, a. 310.

311. Persons invited to make representations or to participate in deliberations are not considered witnesses.

However, the court, if it considers it appropriate, may order the applicant or the person who is the subject of the application to pay them compensation equivalent to that paid to witnesses to cover transportation, meal and accommodation expenses. No compensation is paid to those called to a meeting of relatives, persons connected by marriage or civil union, or friends.

2014, c. 1, a. 311; I.N. 2016-12-01.

TITLE III

RULES APPLICABLE BEFORE NOTARY

CHAPTER I

JURISDICTION OF NOTARY

312. Non-contentious applications relating to tutorship to a minor, except those relating to suppletive tutorship, and to tutorship to a person of full age, including applications for the appointment or replacement of a tutor, as well as applications relating, to a tutorship council or to a protection mandate may be presented before a notary according to the procedure set out in this Title. Applications for the probate of a will or for letters of verification may also be presented before a notary, unless the will concerned was deposited with that notary or a member of the same firm.

The notary seized of an application may rule on any ancillary matters, except those that require a special authorization from the court.

2014, c. 1, a. 312; I.N. 2016-12-01; 2017, c. 12, s. 42; 2020, c. 11, s. 105.

CHAPTER II

APPLICATION

313. The notary seized of an application must have it served on the person concerned and must notify it to all persons who may have an interest in it given their close relationship with that person. The notary must attach a notice stating the date, time and place the notary is to begin the notarial operations, the subject matter of the application and the rights of the interested persons, including their right to make representations they consider appropriate or to oppose the application.

The notary is required to call a meeting of relatives, persons connected by marriage or civil union, or friends in the cases provided for in the Civil Code, including when the application relates to the institution of tutorship to a minor or to a person of full age. The notary may call a conference if the person concerned or a person to whom the application was notified requests one, including when the application relates to the homologation of a protection mandate. The notary is required to invite the person concerned to such a conference and all those to whom the application was notified.

The notary files a copy of the application and a copy of the notice with the court office, together with the notice of meeting if a meeting or a conference is to be held, in order to secure public notice and enable any person wishing to do so to make representations to the court clerk or to the notary. The clerk informs the notary without delay of any representation or opposition received.

2014, c. 1, a. 313; I.N. 2016-12-01; 2020, c. 11, s. 106.

CHAPTER III

OPERATIONS AND CONCLUSIONS

314. If a meeting of relatives, persons connected by marriage or civil union, or friends or a conference is held, the notary informs the applicant, the person concerned and the interested persons present of the process undertaken and hears any representations they wish to make to enlighten the notary in determining conclusions. The notary examines with them the testimony, documents and other evidence submitted, which may pertain to any relevant fact, even one that has arisen since the notary was seized of the application. If a meeting or conference is not required to be held, the notary receives their representations by any other means and records them in the minutes of the notarial operations.

2014, c. 1, a. 314; I.N. 2016-12-01.

315. If the application relates to the institution or review of tutorship to a person of full age or the homologation of a protection mandate, the notary is required to verify that the person concerned is incapable, but cannot determine conclusions without having in hand the assessment reports required by the Civil Code and a transcript of the person's examination. The notary gives an account of the assessments and the examination to all present at the meeting or conference and informs them of any other relevant exhibits.

If the application relates to a protection mandate given in the presence of witnesses, a holograph will or a will made in the presence of witnesses, the notary confirms the existence of the document and determines whether it is valid.

2014, c. 1, a. 315; I.N. 2016-12-01; 2020, c. 11, s. 107.

316. If the notary considers that an incapable person of full age needs to be represented by a lawyer or another notary or by a tutor ad hoc, or assisted by a trusted third person, the notary must inform the interested

persons so that the appropriate measures may be taken. The notary may continue to act if the latter are not opposed to it.

2014, c. 1, a. 316; 2020, c. 11, s. 254.

317. If representations or oppositions are received that are equivalent to an actual contestation of the merits of the application, the notary, after verifying that the person from whom they were received intends to contest the application, must withdraw from the matter and inform the interested persons.

In such a case, the notary draws up the minutes of the operations carried out so far and transfers the matter to the competent court, which is seized of it on the filing of the minutes. If the application is for the probate of a will and the notary is in possession of the original of the will, the notary attaches it to the minutes.

If it considers it expedient, the court may ask the notary to gather all the evidence necessary for the furtherance of the matter, setting a time limit within which the notary is to report back to the court so that it can make its own assessment of the facts.

If the person contesting discontinues their judicial application, the court refers the matter back to the notary for the continuation of the notarial operations.

2014, c. 1, a. 317.

318. On completing the notarial operations, the notary draws up minutes and conclusions.

The minutes must identify the applicant, the person concerned, the persons to whom the application was notified, those who attended the meeting of relatives, persons connected by marriage or civil union, or friends or the conference, if one was held, and those who made representations otherwise. The minutes must state the facts on which the application is based and provide a detailed account of the operations carried out and the evidence submitted. The minutes must also provide an account of any testimony taken and any deliberations had by the tutorship council or the meeting of relatives, persons connected by marriage or civil union, or friends.

The notary promptly files the minutes and conclusions with the office of the court of competent jurisdiction, together with the documents supporting the conclusions.

2014, c. 1, a. 318; I.N. 2016-12-01.

319. In matters relating to the probate of a will or the issue of letters of verification, the filing of the minutes with the court office is for the sole purpose of securing public notice.

The notary advises the interested persons of the filing of the minutes.

2014, c. 1, a. 319.

320. In matters relating to tutorship to a minor, tutorship to a person of full age or a protection mandate, the notary notifies the minutes to the minor concerned, if 14 years of age or older, or to the person of full age concerned. The notary also notifies the minutes to the tutor, the mandatary, the applicant, the spouse of the person concerned, the Public Curator and the other persons to whom the application was notified. The notary informs them, on the same occasion, of their right to file their opposition with the court in the 10 days preceding the date specified by the notary for the filing of the minutes with the court office.

If no opposition is received, the appointment of a tutor to a minor or of a tutorship council becomes effective on the filing of the notary's minutes. An attestation is drawn up by the clerk and sent without delay to the tutor, to the minor, to the members of the tutorship council, and to the Public Curator.

In any other matter, the court seized by the filing of the notary's minutes may, if no opposition is received, grant, amend or reject the conclusions set out in the minutes. The court clerk sends the judgment without delay to the persons to whom the minutes were notified.

2014, c. 1, a. 320; 2020, c. 11, s. 108.

BOOK IV

JUDGMENT, APPLICATION FOR REVOCATION AND APPEAL

TITLE I

JUDGMENT

CHAPTER I

GENERAL PROVISIONS

321. The judgment deciding a dispute or ruling on a case terminates the application; whether given at the hearing or rendered after a period of advisement, it must be in writing and give reasons.

The judge is no longer seized of the matter and the judgment is final if it cannot or can no longer be appealed.

2014, c. 1, a. 321.

322. A judgment concerning support or custody or personal integrity or capacity may be reviewed if the plaintiff or applicant or any interested person is able to present new facts sufficient to result in the varying of the judgment.

The same applies to a judgment in a non-contentious case unless the decision is conclusive in character. A decision conclusive in character, particularly if it concerns a person's status, the ownership of movable or immovable property or a right in such property, has the authority of res judicata.

2014, c. 1, a. 322.

CHAPTER II

ADVISEMENT

323. A judge who, after taking a case under advisement, notes that a rule of law or a principle material to the outcome of the case was not debated during the trial must give the parties an opportunity to make submissions in the manner the judge considers most appropriate.

Alternatively, the trial may be ordered reopened on the judge's own initiative. Such a decision must give reasons and state how the reopened trial is to be conducted. The court clerk must send the decision without delay to the chief justice or chief judge and to the parties' lawyers.

2014, c. 1, a. 323.

324. For the benefit of the parties, the judgment on the merits in first instance must be rendered within

(1) six months after the matter is taken under advisement in contentious proceedings;

(2) four months after the matter is taken under advisement in small claims matters under Title II of Book VI;

(3) two months after the matter is taken under advisement in child custody or child support matters and non-contentious cases;

(4) two months after the matter is taken under advisement if the judgment is to determine whether a judicial application is abusive;

(5) one month after the case is ready for judgment if a judgment is to be rendered following the defendant's failure to answer the summons, attend the case management conference or defend on the merits; and

(6) one month after the matter is taken under advisement if the judgment is to determine a matter brought under the Act respecting expropriation (chapter E-25).

The time limit is two months after the matter is taken under advisement in the case of a judgment in the course of a proceeding, but one month after the court is seized when it is to rule on an objection raised during a pre-trial examination and pertaining to the fact that a witness cannot be compelled, to fundamental rights or to an issue raising a substantial and legitimate interest.

The death of a party or its lawyer cannot operate to delay judgment in a matter taken under advisement.

If the advisement period has expired, the chief justice or chief judge, on their own initiative or on a party's application, may extend it or remove the judge from the case.

2014, c. 1, a. 324; 2023, c. 27, s. 193.

325. The court clerk sends the chief justice or chief judge, according to the instructions given by the latter, a list of all cases in the judicial district, whatever their nature, that have been under advisement for five months or more if the time limit for rendering a judgment is six months, three months or more if the time limit is four months, 45 days or more if the time limit is two months and 20 days or more if the time limit is one month.

2014, c. 1, a. 325.

CHAPTER III

REPLACEMENT OF JUDGE

326. If a judge is removed from a case, dies, leaves office or is unable to act, the chief justice or chief judge may order that the case or cases pending before the judge be continued and completed by another judge, or be set down for a new trial, depending on the stage reached.

On the chief justice's or chief judge's request, a judge who is leaving office must, within three months, complete any cases taken under advisement. A judge who is leaving office because of an appointment to another court must, if the chief justice or chief judge of that other court agrees, continue and complete any cases pending before the judge.

The chief justice's or chief judge's decision must take the circumstances and the parties' interests into account. The chief justice or chief judge exercises the responsibilities conferred by this article personally, but may also ask a senior associate or associate chief justice or chief judge to exercise them.

In the decision, the chief justice or chief judge rules on the legal costs for any proceedings already had and may take any other measure as is considered fair and appropriate.

2014, c. 1, a. 326.

327. With the parties' consent, the judge assigned to continue a case or to hear a case set down for a new trial may decide to rely solely, as regards evidence, on the recording of the original trial or the transcript of

stenographic notes. If that proves insufficient, the judge may recall a witness or require other evidence from the parties.

If it is necessary to have stenographic notes transcribed or witnesses recalled, the costs involved are borne by the Minister of Justice unless the judge orders otherwise.

2014, c. 1, a. 327.

CHAPTER IV

RULES APPLICABLE TO JUDGMENT

328. A judgment rendered against a party must be capable of being executed. A judgment awarding damages must liquidate the damages; a judgment finding persons solidarily liable for injury must, if the evidence permits, determine the share of each of those persons in the award as between them only.

2014, c. 1, a. 328.

329. A judgment awarding damages for bodily injury that reserves the plaintiff's right to claim additional damages must specify the subject matter of the potential claim and the time within which the claim must be made.

The judgment is enforceable despite an appeal insofar as the appeal pertains to the reserved right to claim damages or the time within which it is to be exercised.

2014, c. 1, a. 329.

330. A judgment granting an authorization to act expires if not acted upon within the time specified in the judgment or, if no time is determined by the court or by law, within six months.

A judgment authorizing care, the alienation of a part of a person's body or confinement in a health or social services institution expires if not acted upon within three months or within any other time specified by the court.

2014, c. 1, a. 330; I.N. 2016-12-01.

331. A judgment in a non-contentious case authorizing the sale of the property of another must determine the method of sale and the terms of the sale. It must also designate the person who is to effect the sale and determine the particulars of that person's remuneration, as well as those of the report on the sale to be filed with the court office.

The court sets a reserve price to ensure that the property is sold at a commercially reasonable price.

2014, c. 1, a. 331.

332. A judgment pertaining to immovable or movable real rights must contain a description of the property concerned so as to permit the publication of the rights in the property, if applicable.

A judgment ordering restitution of fruits and revenues must, if necessary, order their liquidation by an expert; the party liable to the restitution is required to deliver all necessary supporting documents to the expert.

2014, c. 1, a. 332.

333. A party may renounce the rights arising from a judgment in its favour by filing a renunciation with the court office. The renunciation is made by the party itself or by its mandatary acting under a special mandate.

If total and accepted by the other parties, the renunciation operates to restore the proceeding to its state prior to the judgment.

2014, c. 1, a. 333.

CHAPTER V

FORMAL JUDGMENT

334. A judgment dated and signed by the person who rendered it is an authentic act. It is deposited at the court office and entered without delay in the registers under the date appearing on it. It is kept in the court records.

A judgment rendered at the hearing, whether a judgment on the merits or a judgment in the course of a proceeding, is evidenced by entry of the decision and its main whereas clauses in the minutes, attested by the person who rendered the judgment. On a party's request, the judgment may also be evidenced by the transcript of the recording, signed by the person who rendered the judgment. The operative part of the judgment cannot be modified in such a transcript but the judge may correct its form.

If there is a discrepancy between the original judgment and the entries in the court registers, the former prevails, and the judge may without formality order that the necessary corrections be made in the court registers.

2014, c. 1, a. 334.

335. On entry in the court registers of a judgment other than a judgment rendered at the hearing in the presence of the parties, a notice is notified to the parties and their lawyers. The judgment may be notified by technological means to the parties and lawyers who have provided the necessary contact information.

The court clerk may issue certified copies of a judgment on request and for a fee.

2014, c. 1, a. 335.

336. In a non-contentious case, a judgment on an application relating to personal integrity, status or capacity is notified to the person concerned and, if that person has a representative, to the representative according to the instructions of the court, if any are given.

A judgment concerning tutorship to an absentee, to a minor or to a person of full age, concerning a protection mandate or assistance to a person of full age or authorizing temporary representation of an incapable person of full age is notified without delay to the Public Curator, except a judgment authorizing the designation of a suppletive tutor where the value of the minor's property does not exceed $40,000. A judgment on an application relating to a person's status is notified to the registrar of civil status.

A judgment relating to adoption is notified to the parties or their representatives in compliance with the rules governing the publication of judgments in family matters, unless the court decides, on application or on its own initiative, to depart from those rules. Those rules do not apply where the child or the adopter is domiciled outside Québec or where the judgment is notified to the director of youth protection and to the Minister of Health and Social Services. If it is notified to the party entrusted with the parental authority, the judgment ordering the child's placement or adoption is accompanied by a certificate attesting the parental authority. In the case of a judgment declaring a child judicially eligible for adoption, such certificate may be sent to the person who was entrusted with the parental authority if that person so requests it.

A judgment concerning an application for cancellation of the entry in the land register of a notice of expropriation or concerning the contestation of the expropriating party's right to expropriate is notified without delay to the Administrative Tribunal of Québec.

2014, c. 1, a. 336; 2017, c. 12, s. 43; 2022, c. 22, s. 142; 2020, c. 11, s. 109; 2023, c. 27, s. 194.

337. The transcript of a judgment rendered at the hearing by a judge who has since died, become unable to act or left office may be signed by the chief justice or chief judge or by another judge designated by the latter.

2014, c. 1, a. 337.

338. A judgment containing an error in writing or calculation, or any other clerical error, including an error in the description of property, may be corrected by the person who rendered it. The same applies to a judgment which, by obvious inadvertence, grants more than was sought or does not rule on part of the application.

The correction may be made on the judge's own initiative as long as execution of the judgment has not begun, or at any time on a party's request unless the judgment is under appeal. If the person who rendered the judgment has left office or is unable to act, the court may make the correction.

If the correction is to the operative part of the judgment, the time limits for appeal and execution begin to run on the date of the correction.

2014, c. 1, a. 338.

TITLE II

LEGAL COSTS

339. The legal costs of a case comprise court costs and fees, including disbursements incurred for the physical preparation of appeal briefs and memorandums, professional fees and expenses for the service or notification of pleadings and documents, witness indemnities and allowances as well as any expert fees, interpreter fees and fees for registration in the land register or the register of personal and movable real rights. They may also include the costs related to taking and transcribing testimony filed in the court record, if that was necessary.

Expert fees include the costs related to the drafting of the report and, if applicable, preparing testimony, and remuneration for the time spent testifying and, to the extent useful, attending the trial.

A party to a proceeding may, given their financial situation, apply to be exempted from paying the costs prescribed for each hearing day required to try the merits of a case. Such an exemption is exceptionally granted by the court, in whole or in part, taking into account any appropriate factor, including such factors as may be specified by government regulation, if it is shown to the court that paying those costs would result, for that party, in difficulties so excessive that the party would not be able to effectively conduct its case.

An application for such an exemption may be made at any time during the proceeding. It suspends the obligation to pay the costs concerned until the court rules on the application. The decision of the court cannot be appealed. The court may, however, even on its own initiative, revoke an exemption it has granted or review its decision to refuse an exemption if a significant change in the party's financial situation justifies doing so.

The court may not, however, grant such an exemption if it is related to a judicial application or pleading by the party that is clearly unfounded, frivolous or intended to delay or is otherwise abusive.

2014, c. 1, a. 339; 2015, c. 26, s. 1.

340. Legal costs are owed to the party that was successful, unless the court decides otherwise.

However, the legal costs are borne by each of the parties in family matters, by the plaintiff or applicant in personal integrity or status matters and by the person concerned in personal capacity matters. In any such cases, the court may decide otherwise.

When the court authorizes representation of a child or an incapable person of full age by a lawyer, the related legal costs are decided by the court according to the circumstances.

The costs related to joint applications are apportioned equally between the parties unless they have agreed otherwise.

2014, c. 1, a. 340.

341. The court may order the successful party to pay the legal costs incurred by another party if it is of the opinion that the successful party did not properly observe the principle of proportionality or committed an abuse of procedure, or that such an order is necessary to prevent serious prejudice to a party or to permit a fair apportionment of the costs, including those incurred for expert fees, the taking of testimony or its transcription.

The court may also make such an order if the successful party breached its undertakings with regard to the conduct of the proceeding, such as by failing to meet time limits, if it unduly delayed in presenting an incidental application or filing a notice of discontinuance, if it needlessly required a witness to attend at court or if it refused, without valid cause, to accept tenders, to admit the origin or integrity of evidence or, in a family matter, to participate in a parenting and mediation information session.

As well, the court may make such an order if the successful party delayed in raising grounds that resulted in the expert report being corrected or rejected or a new expert's opinion being necessary.

2014, c. 1, a. 341.

342. The court, after hearing the parties, may, on its own initiative or on an application, punish substantial breaches noted in the conduct of the proceeding by ordering a party to pay to another party, as legal costs, an amount that it considers fair and reasonable to cover the professional fees of the other party's lawyer or, if the other party is not represented by a lawyer, to compensate the other party for the time spent on the case and the work involved.

For that purpose, in family matters, the court takes into account the history of the proceedings involving the parties.

2014, c. 1, a. 342; 2024, c. 22, s. 32.

343. Legal costs bear interest at the legal rate as of the date of the judgment awarding them and are payable to the party to which they are awarded. If legal costs are awarded against two or more parties, they are solidarily liable for paying them.

2014, c. 1, a. 343.

344. The party entitled to legal costs prepares a bill of costs based on the tariffs in force and notifies it to the debtor party, which then has 10 days to notify its opposition.

If such opposition is notified, the bill of costs is sent for taxation to the court clerk, who, to determine the costs, may require that it be proved by affidavit or witness testimony that the costs were incurred. In appeal, legal costs are taxed by the appellate clerk.

Once the bill of costs has been drawn up, a party may ask the clerk to homologate it. The clerk's decision may be reviewed within 10 days by the court or, as applicable, by an appellate judge. The bailiff may also, within 10 days after becoming aware of the decision, ask for its review as regards the bailiff costs.

The decision concerning the taxation or homologation of the legal costs is executed in accordance with the rules of provisional execution.

2014, c. 1, a. 344.

TITLE III

REVOCATION OF JUDGMENT

CHAPTER I

REVOCATION ON APPLICATION BY PARTY

345. A judgment may, on a party's application, be revoked by the court that rendered it if letting the judgment stand would tend to bring the administration of justice into disrepute. The judgment may be revoked, for instance, if fraud was committed by another party, if the judgment was based on false exhibits or if the production of decisive exhibits was prevented by superior force or by the act or omission of another party.

As well, a judgment may be revoked if

(1) the judgment adjudicated beyond the conclusions set out in the application or did not rule on one of them;

(2) no valid defence was produced in support of the rights of a minor or of a person of full age under tutorship or for whom a protection mandate has been homologated;

(3) a ruling was made on the basis of invalid consent or following an unauthorized tender that was subsequently disavowed; or

(4) evidence was subsequently discovered that would probably have led to a different judgment if the party concerned or its lawyer had become aware of that evidence in sufficient time, although they acted with due diligence.

2014, c. 1, a. 345; 2020, c. 11, s. 254.

346. A party against which a default judgment has been rendered following failure to answer the summons, attend the case management conference or defend on the merits but that was prevented from doing so owing to fraud, surprise or any other cause considered sufficient may apply to the court that rendered the judgment for the revocation of the judgment and the dismissal of the original application.

The application for revocation must contain the reasons justifying the revocation as well as the grounds of defence raised against the original application.

2014, c. 1, a. 346.

347. An application for revocation must be served on all parties to the proceeding within 30 days after the day on which the cause preventing the party from filing a defence ceased to exist, or after the day on which the party became aware of the judgment, evidence or fact that constitutes grounds for the revocation. In the case of a minor, the 30-day period only begins to run as of notification of the judgment after the person reaches full age.

The application for revocation must be presented before the court within 30 days after service, as if it were an application in the course of a proceeding. It cannot be presented if more than six months have elapsed since the judgment.

These are strict time limits.

2014, c. 1, a. 347.

348. If, when the application for revocation is presented, the reasons given are found to be sufficient, the parties are restored to their former state and the court stays execution of the judgment; it continues the original proceeding after agreeing with the parties on a new case protocol.

If circumstances permit, the court may decide the application for revocation and the original application at the same time.

2014, c. 1, a. 348.

CHAPTER II

REVOCATION ON APPLICATION BY THIRD PERSON

349. Any person whose interests are affected by a judgment rendered in a proceeding in which neither they nor their representatives were called may apply for the revocation of the judgment if it prejudices their rights. The application for revocation commences a proceeding before the court that rendered the judgment.

Except if personality rights or personal status or capacity are at issue, the application must be brought within six months after the person becomes aware of the judgment. It must be served on the parties to the judgment whose revocation is sought or, if the application is brought within one year after the judgment, on the persons who represented them in the case.

2014, c. 1, a. 349.

CHAPTER III

EFFECT OF APPLICATION FOR REVOCATION

350. An application for revocation does not stay execution of the judgment. However, the court may order such a stay and, in urgent circumstances, may do so without prior notice.

On notification of the application for revocation and the stay order, the executing bailiff immediately stays the execution proceedings, except for conservatory measures.

2014, c. 1, a. 350.

TITLE IV

APPEAL

CHAPTER I

COMMENCEMENT OF APPEAL PROCEEDING

DIVISION I

INITIATION OF APPEAL

351. The right to appeal belongs to any party to the judgment in first instance having an interest in appealing, unless the party has waived that right. In a non-contentious case, an appeal is also available to third persons to whom the judgment was notified.

2014, c. 1, a. 351.

352. The Court of Appeal is seized and an appeal initiated by filing a notice of appeal with the office of the Court of Appeal, together with proof of service on the respondent.

2014, c. 1, a. 352.

353. The notice of appeal must designate the parties and specify the court that rendered the judgment in first instance, the judgment date and the duration of the trial. It must be filed together with a copy of the judgment in first instance.

The notice of appeal must state the grounds of law or fact the appellant intends to argue to have the judgment varied or quashed, the conclusions sought by the appellant and, if applicable, the value of the subject matter of the dispute.

The appellant must, within 45 days after the date of the judgment under appeal, file the notice of appeal together with a certificate certifying that no transcript of depositions is necessary for the appeal or stating that it has given instructions to an official stenographer for the transcription of the depositions it intends to use.

2014, c. 1, a. 353.

354. The notice of appeal is notified to the office of the court of first instance. The court clerk informs the judge who rendered the judgment of the appeal and, on the appellate clerk's request, sends the case record without delay to the Court of Appeal, along with an inventory of the exhibits in the record and a list of the relevant entries in the court registers.

The court clerk must do so within two days after notification if the appeal concerns a person's release or personal integrity.

2014, c. 1, a. 354.

355. A properly initiated appeal stays execution of the judgment, except if provisional execution has been ordered or is provided for by law.

If the sole object of the appeal is to obtain an increase or a decrease in the amount awarded by the judgment, a judge of the Court of Appeal may, on an application, order the party against which the judgment was awarded to comply with the judgment up to the uncontested amount.

2014, c. 1, a. 355.

356. If the appellant is not able, before the expiry of the time limit for appeal, to provide in the notice of appeal a detailed statement of all the grounds it plans to argue, an appellate judge, on an application and if serious reasons so warrant, may authorize the filing of a supplementary statement within a specified time.

2014, c. 1, a. 356.

357. If leave to appeal is required, the related application is attached to the notice of appeal together with the judgment and the exhibits and evidence necessary to obtain leave. The application is presented without delay and contested orally before an appellate judge, who decides whether or not to grant leave. The appellate clerk sends the judgment without delay to the office of the court of first instance and to the parties.

If leave to appeal is granted, the notice of appeal is deemed to have been filed on the date of the judgment granting leave. If leave to appeal is denied, the judgment must give brief reasons and the Court of Appeal is no longer seized of the matter.

If leave to appeal was not required and the appeal could have been initiated solely by filing a notice of appeal, the notice of appeal is deemed to have been filed on the date the judge takes note of its filing.

The appellant has 15 days as of the judgment granting leave to appeal or as of the date the judge takes note of the filing of the notice of appeal to file the certificate concerning the transcription of depositions with the court office and to notify it to the other party.

2014, c. 1, a. 357.

358. The notice of appeal, including, if applicable, the application for leave to appeal, is served on the respondent and notified to the lawyer who represented the respondent in first instance before the expiry of the time limit for appeal. It is also notified, before the expiry of that time limit, to persons with an interest in the appeal as intervenors or impleaded parties.

Within 10 days after notification, the respondent, the intervenors and the impleaded parties must file a representation statement giving the name and contact information of the lawyer representing them or, if they are not represented, a statement indicating as much. If an application for leave to appeal is attached to the notice of appeal, the intervenors and the impleaded parties are only required to file such a statement within 10 days after the judgment granting leave or after the date the judge takes note of the filing of the notice of appeal.

The lawyer who represented the respondent in first instance, if no longer acting for the respondent, must so inform the respondent, the appellant and the office of the Court of Appeal without delay.

2014, c. 1, a. 358.

359. If a notice of appeal has been filed by a party, another party in the case may initiate an incidental appeal by filing a notice of incidental appeal with the office of the Court of Appeal. An incidental appeal is continued despite the withdrawal or dismissal of the principal appeal.

2014, c. 1, a. 359.

DIVISION II

APPEAL TIME LIMITS

360. A party intending to appeal a judgment is required to file a notice of appeal within 30 days after the date of the notice of judgment or after the date of the judgment if it was rendered at the hearing. If leave to appeal is required, the notice of appeal must be filed together with an application for leave to appeal.

A notice of incidental appeal must be filed and served within 10 days after service of the notice of appeal or after the date of the judgment granting leave to appeal.

2014, c. 1, a. 360.

361. The time limit for appealing a judgment that lifts an interlocutory injunction or denies a person's release is 10 days; the time limit for appealing a judgment confirming or quashing a seizure before judgment is also 10 days.

The time limit for opposing a person's release or appealing a judgment granting an application for authorization relating to personal integrity or ordering confinement for or after a psychiatric assessment is five days.

2014, c. 1, a. 361.

362. If a party dies before the expiry of the time limit for appeal without having exercised their right to appeal, the time runs against the successors as of the time the judgment in first instance is notified to them.

2014, c. 1, a. 362.

363. The time limits for appeal are strict time limits, and the right to appeal is forfeited on their expiry.

Nevertheless, the Court of Appeal may authorize an appeal if not more than six months have elapsed since the judgment and if it considers that the appeal has a reasonable chance of success and that, in addition, it was impossible in fact for the appellant to act earlier. The Court may, even after the time limit has expired, authorize an incidental appeal if it considers it appropriate.

An appellate judge may, on an application, suspend the time limits for appeal if the judgment has reserved the plaintiff's right to claim additional damages for bodily injury. The judge suspends such time limits if there are compelling reasons for an appeal against the judgment and an appeal concerning the application for additional damages to be heard together; in such a case, the duration and terms of the suspension are determined by the judge.

2014, c. 1, a. 363.

DIVISION III

CONDITIONS IMPOSED ON APPEAL OR DISMISSAL OF APPEAL

364. The Court of Appeal or an appellate judge, on their own initiative or on an application by the respondent, may, for good cause, subject an appeal to the provision of a suretyship to guarantee payment of the appeal costs and of the judgment amount if the judgment is affirmed.

The Court or the judge determines the amount of the suretyship and the time limit within which the appellant is required to furnish the surety.

2014, c. 1, a. 364.

365. The Court of Appeal, even on its own initiative, may dismiss an appeal if the right to appeal is non-existent or has been forfeited or the appeal is abusive or improperly initiated. It may also, on an application by the respondent, dismiss an appeal if the surety is not furnished within the time limit determined, the judgment under appeal has been acquiesced in or a party in whose favour the judgment was rendered has renounced the rights arising from it, or if the appeal has no reasonable chance of success.

The application for the dismissal of an appeal must be filed with the office of the Court within 20 days after service of the notice of appeal, and cannot be presented before 30 days have elapsed since its filing. The time limits for preparing the appeal record are suspended until judgment is rendered on the application for the dismissal of the appeal.

The inadmissibility of an appeal may be urged despite a failure to oppose the appeal within the allotted time.

2014, c. 1, a. 365.

366. The Court of Appeal may, on the face of the record, deny an application for the dismissal of an appeal that is based on the grounds that the appeal has no reasonable chance of success or is abusive.

2014, c. 1, a. 366.

CHAPTER II

APPEAL MANAGEMENT

367. An appellate judge may, at any time, on the judge's own initiative or on request, convene the parties to confer with them on the advisability of adopting appeal management measures in order to define the issues really in dispute and determine possible ways of simplifying and shortening the proceedings.

After giving the parties the opportunity to make representations, the judge may suggest that they take part in a settlement conference and may determine or limit the pleadings and the documents to be filed, setting the time limit for doing so. As well, the judge may decide, despite the rules otherwise applicable, that it is best to proceed by way of briefs or memorandums or may, if necessary, modify time limits prescribed by this Code. The judge may also set the date, time and duration of the hearing and, if required by the circumstances, refer the matter to the Court so that appropriate measures, including dismissal of the appeal, may be taken.

The appeal management conference is held without formality and requires no prior documents. Any appropriate means of communication may be used.

Appeal management decisions are binding on the parties.

2014, c. 1, a. 367.

368. In matters where the appeal record is to comprise memorandums, the appellate clerk may set the date and time of the hearing and establish a calendar, with the parties, for the filing of documents.

2014, c. 1, a. 368.

369. At any time during the appeal proceeding, a party may, without formality, request directives from the chief justice for the subsequent conduct of the appeal.

2014, c. 1, a. 369.

CHAPTER III

APPEAL BRIEF AND MEMORANDUM

370. The contentions of the parties to an appeal are stated in their respective briefs or memorandums, which are governed, as regards their content and physical preparation, by the regulations of the Court of Appeal.

A hard copy transcript of relevant extracts from the evidence must be attached to each brief or memorandum. A full transcript of the depositions and evidence is filed only if available on a technological medium.

2014, c. 1, a. 370.

371. A respondent making an incidental appeal includes all particulars relevant to the incidental appeal in its brief or memorandum on the main appeal.

2014, c. 1, a. 371.

372. In its brief, each of the parties sets out the arguments raised and the conclusions sought in relation to the issues in dispute, a list of the authorities relied on and relevant excerpts from the depositions and exhibits. In the absence of a joint statement by the parties, it includes the party's statement of the facts and issues in dispute.

The parties' joint statement, if included, sets out the facts and the issues in dispute and identifies the evidence that is relevant to the appeal. It must be filed with the office of the Court of Appeal within 45 days after the notice of appeal is filed.

2014, c. 1, a. 372.

373. Briefs must be filed with the office of the Court of Appeal and notified to the other parties to the proceeding within the time limit specified in the appeal management decision made by an appellate judge or, in the absence of such a decision, within three months after the notice of appeal is filed in the appellant's case and within the following two months in the respondent's case. Any other party must file a brief within four months after notification of the appellant's brief.

A respondent in an incidental appeal may file and notify a brief in reply to the incidental appeal within two months after notification of the incidental appellant's brief.

An appellate judge may extend a time limit if an application for an extension is made before the time limit expires.

2014, c. 1, a. 373.

374. In an appeal against a judgment in a personal integrity, status or capacity, habeas corpus, family, international child abduction or seizure matter, or against a judgment rendered in a non-contentious proceeding or in the course of a proceeding, a memorandum is filed. A memorandum is also filed in other cases if so ordered by an appeal management decision of an appellate judge.

A memorandum concisely states the facts, the issues in dispute as well as the party's contentions, conclusions and main arguments.

Memorandums are filed with the office of the Court of Appeal and notified to the other parties to the proceeding within the time limits specified in the appeal management decision of the appellate clerk or an appellate judge.

2014, c. 1, a. 374.

375. At any time before the hearing, after a brief or joint statement or memorandum has been filed, an appellate judge may ask a party to file additional notes in the appeal record.

2014, c. 1, a. 375.

376. The appeal lapses if the appellant does not file a brief or a memorandum within the time limit for filing. The appellate clerk issues a certificate of lapse of appeal, unless an appellate judge is seized of an application for an extension.

A respondent or any other party that does not make a timely filing of its brief or memorandum is precluded from filing and cannot be heard at the hearing unless so authorized by the Court of Appeal.

2014, c. 1, a. 376.

CHAPTER IV

CONDUCT OF APPEAL

DIVISION I

APPLICATIONS IN COURSE OF PROCEEDING AND INCIDENTAL APPLICATIONS

377. Any application in the course of a proceeding must be in writing and be accompanied by a notice of the date of presentation.

The application must be notified to the other parties and filed with the court office within the time limit prescribed by a regulation of the Court of Appeal.

2014, c. 1, a. 377; I.N. 2016-12-01; 2020, c. 29, s. 35.

378. Incidental applications available in first instance may be presented on appeal, insofar as they are applicable.

An appellate judge sitting alone is competent to decide incidental applications, except those that relate to the merits of the case.

However, applications to cease representing a party, for a substitution of lawyer or for the consolidation or separation of appeals, or appeal management applications for the setting or extension of time limits or for

authorization to file a supplementary statement are decided by an appellate judge sitting alone or the appellate clerk. In all cases, the appellate clerk may refer an application to a judge, or the appellate judge, to a panel of the Court of Appeal, if the clerk or judge considers that the interests of justice so require. Such applications are filed by means of a letter and notified to the other parties.

2014, c. 1, a. 378.

379. In any case before the Court of Appeal, an appellate judge may issue a safeguard order or authorize the correction, within the time and subject to the conditions the judge determines, of any irregularity in the appeal proceeding, provided the notice of appeal has been duly filed and notified.

2014, c. 1, a. 379.

380. The Court of Appeal may authorize a party to present indispensable new evidence after giving the parties an opportunity to make representations.

The Court decides how the evidence is to be presented, and may even refer the case back to the court of first instance so that further proof may be made.

2014, c. 1, a. 380.

DIVISION II

SETTLEMENT CONFERENCE

381. On the parties' request, an appellate judge may, at any time, preside over a settlement conference to assist the parties in resolving the issues under appeal.

Notice of the settlement conference is given to the appellate clerk by the parties, and the holding of the conference suspends the time limits prescribed by this Title.

2014, c. 1, a. 381.

382. A settlement conference is held in camera in the presence of the parties and of their lawyers. It is conducted at no cost to the parties and without formality and requires no prior documents. Anything said, written or done during the conference is confidential. All other rules governing the conference are defined by the judge and the parties.

A transaction terminating the case is submitted to the Court of Appeal by the appellate clerk to be homologated and made enforceable.

2014, c. 1, a. 382.

DIVISION III

SETTING DOWN FOR HEARING

383. The appellate clerk sets an appeal down for hearing as soon as it is ready to be heard, that is, once the appeal record has been completed by the filing of all the briefs or memorandums, or when the Court of Appeal so orders.

If the appeal concerns a person's release or personal integrity, it is set down to be heard at the earliest opportunity after the appellant's brief is filed.

If the respondent has not filed nor notified a brief or a memorandum within the allotted time, the appeal is nevertheless set down by the appellate clerk for hearing.

An appellate judge or the appellate clerk may strike an appeal from the roll and postpone the hearing to a later date.

2014, c. 1, a. 383.

384. The Court of Appeal or an appellate judge, on the parties' request, may decide that the appeal will be decided on the face of the record.

In such a case, the appellate clerk informs the parties of the date on which the appeal is to be taken under advisement and of the identity of the judges on the panel. At any time during the advisement period, the judges may ask the appellate clerk to set the appeal down for hearing if they consider that a hearing is necessary.

2014, c. 1, a. 384.

DIVISION IV

HEARING

385. The appellate clerk informs the parties of the hearing date and specifies the time allotted to each party for oral argument.

2014, c. 1, a. 385.

386. The Court of Appeal hears the parties in a three-judge panel, but that number may be increased if the chief justice sees fit.

The appellate judge who was the trial judge in first instance or who presided over a settlement conference concerning the matter cannot hear the appeal.

2014, c. 1, a. 386.

CHAPTER V

DECISION

387. A decision is rendered by the Court of Appeal when a majority of the judges having heard the appeal concur. The decision may be given at the hearing by the judge who presided over the appeal hearing, even in the absence of the other judges; alternatively, it may be deposited at the office of the Court under the signature of all or the majority of the judges who heard the appeal.

The appellate clerk informs the parties without delay that a decision has been rendered by the Court of Appeal and sends it to the court of first instance along with the record.

All decisions of the Court of Appeal and its judges are subject to the rules of this Book governing judgments, with the necessary modifications.

2014, c. 1, a. 387.

388. The fact that a judge who heard the appeal cannot make their opinion known does not prevent the other judges, if sufficient in number, from rendering a decision. Otherwise, the chief justice may order a new hearing if the interests of justice so require.

A judge who is unable to act or has left office, including because of an appointment to another court, may nonetheless participate in the decision.

2014, c. 1, a. 388.

389. In addition to the operative part, a decision of the Court of Appeal must contain the names of the judges who heard the appeal and mention any judge who does not concur in the opinion of the majority.

The decision must give reasons, unless it refers to one or more opinions issued by the judges.

2014, c. 1, a. 389.

390. A decision of the Court of Appeal is enforceable immediately and bears interest from the date it is rendered, unless it specifies otherwise. Its execution, as regards both the principal and any legal costs, is carried out by the court of first instance.

However, the Court of Appeal or one of its judges, on an application, may order execution stayed, on appropriate conditions, if the party shows that it intends to bring an application for leave to appeal to the Supreme Court of Canada.

2014, c. 1, a. 390.

BOOK V

RULES APPLICABLE TO CERTAIN CIVIL MATTERS

TITLE I

APPLICATIONS IN MATTERS GOVERNED BY LAW OF PERSONS

CHAPTER I

GENERAL PROVISIONS

391. A person of full age or a minor who is competent to testify and who is the subject of an application relating to personal integrity, status or capacity must, before a decision is made by the court seized or minutes of the operations and conclusions are drawn up by the notary, as applicable, be heard in person for the purpose of making representations, giving their opinion or answering questions.

An exception to this rule applies if it is impossible to hear the person, if it is clearly inexpedient to insist on such representations, opinion or testimony being given because of the urgency of the situation or the person's state of health, or if it is shown to the court that requiring that the person testify could be harmful to the person's health or safety or that of other persons.

2014, c. 1, a. 391.

392. The court seized of an application may delegate the responsibility of hearing the person of full age or the minor, and of drawing up minutes recording their answers, to a judge or a court clerk in the judicial district of the person's residence or, at the parties' expense, to a notary practising in that district. The minutes are sent to the court and to the applicant.

In the case of a person of full age living in a remote location, the notary seized of an application may delegate the responsibility of hearing the person to another notary in order to avoid excessive travel expenses. If not sufficiently fluent in the person's language, the notary may also mandate a notary who speaks the language. The latter hears the person, draws up minutes of the meeting and attaches the answers recorded. If it is necessary for the notary seized of the application or the other notary to retain the services of an interpreter, the interpreter, in the notary's presence, records the answers, and attests to their faithfulness, in a document that the notary attaches to the minutes.

If the person has not been examined, that fact is recorded, with reasons, in the judgment rendered by the court or in the minutes drawn up by the notary seized of the application.

2014, c. 1, a. 392.

393. An application relating to the personal integrity, status or capacity of a person of full age or a minor 14 years of age or older must be served on that person. In the case of a minor, it must also be served on the person having parental authority and the tutor.

An application relating to suppletive tutorship must be served on the minor if the minor is 10 years of age or over.

The application must be accompanied by a notice, in keeping with the model established by the Minister of Justice, informing the person of their rights and obligations, including their right to be represented. The bailiff who serves the application must draw the person's attention to the content of the notice.

2014, c. 1, a. 393; 2017, c. 12, s. 44.

394. An application pertaining to any of the following must be notified to the Public Curator together with the exhibits in support of it:

(1) tutorship to a person of full age;

(2) tutorship to an absentee;

(3) temporary representation of an incapable person of full age;

(4) assistance to a person of full age;

(5) a protection mandate, except an application for a judicial authorization;

(6) tutorship to a minor, except an application relating to suppletive tutorship where the value of the minor's property does not exceed $40,000; or

(7) the emancipation of a minor.

In any such case, the proceeding is stayed until proof of notification is received by the court office.

The Public Curator, on the Public Curator's own initiative and without notice, may take part in the trial of any such application.

2014, c. 1, a. 394; 2017, c. 12, s. 45; 2020, c. 11, s. 110.

CHAPTER II

APPLICATIONS RELATING TO PERSONAL INTEGRITY

DIVISION I

CARE AND CONFINEMENT IN INSTITUTION

395. An application to obtain authorization from the court for the provision of care to a minor or to a person of full age incapable of giving consent, or for the alienation of a part of their body, cannot be presented before the court less than five days after the application is notified to the interested persons, including the person having parental authority, the tutor or, in the case of a person of full age, the mandatary designated by the person at the time the person was capable of giving consent or, if not so represented, by a person who

could consent to care for the person. If there are no such persons, the application and exhibits are notified to the Public Curator. These persons may consult or copy the court record.

2014, c. 1, a. 395; I.N. 2016-12-01; 2020, c. 29, s. 36; 2020, c. 11, s. 111.

396. An application concerning a person's confinement in a health or social services institution for or after a psychiatric assessment cannot be presented before the court less than two days after it is notified, in the case of a minor, to the person having parental authority and the tutor and, in the case of a person of full age, to the tutor or mandatary or, if the person is not so represented, to a member of the person's family, to the person in whose custody the person is confined or to a person who shows a special interest in the person. If there are no such persons, the application and exhibits are notified to the Public Curator. These persons may consult or copy the court record.

2014, c. 1, a. 396; 2020, c. 29, s. 37; 2020, c. 11, s. 254.

397. A judgment ordering a person's confinement for or after a psychiatric assessment is enforceable immediately. A judge of the Court of Appeal may, however, suspend execution of the judgment.

The court clerk sends the judgment and the record without delay to the Administrative Tribunal of Québec, at no cost to the parties. In addition, the judgment is notified to every person to whom the application was notified. It may be executed by a peace officer.

2014, c. 1, a. 397.

DIVISION II

HABEAS CORPUS

398. Any person deprived of liberty without it having been ordered by a decision of the competent court may ask the Superior Court to rule on the lawfulness of the detention and order the person's release if the detention is unlawful. A third person may act on the person's behalf.

The summons directs the detaining authority to appear before the court on the date specified in order to explain the reasons for the detention.

If the deprivation of liberty is due to confinement in an institution governed by health services and social services legislation or to detention in a correctional facility or a penitentiary, the application must be notified to the Attorney General, together with a notice of the date of presentation.

2014, c. 1, a. 398.

399. The application must be tried on the day it is presented. The plaintiff's proof may be made by affidavit.

If the court considers that the Attorney General has a sufficient interest, it orders that the application be notified to the Attorney General and adjourns the trial to an early date, which cannot be more than three days later.

2014, c. 1, a. 399.

400. If the application cannot be tried on the day it is presented, the court may authorize the person's immediate release; however, if the person is in detention, the court may determine conditions to ensure the person's attendance at the trial and compliance with any orders that may be issued.

2014, c. 1, a. 400.

401. A habeas corpus order is served personally, unless circumstances prevent it, in which case the court determines the method of notification it considers most appropriate.

2014, c. 1, a. 401.

402. The court's decision is enforceable on the expiry of the time for appeal or as soon as the adverse party and the Attorney General, if party to the proceeding, indicate that they do not wish to appeal.

If there is an appeal, the court or a judge of the Court of Appeal may order the person's provisional release and set the conditions of release.

2014, c. 1, a. 402.

CHAPTER III

APPLICATIONS RELATING TO PERSONAL STATUS AND CAPACITY

403. An application for the review of a decision of the registrar of civil status is admissible only if it is instituted within 30 days after the decision is notified to the plaintiff. The registrar of civil status sends the relevant record to the court office without delay.

2014, c. 1, a. 403.

403.1. An application for authorization of the designation of a suppletive tutor must be served on the youth protection director having jurisdiction in the place where the minor resides if the minor is the subject of a report. The director may intervene as of right as regards such an application.

2017, c. 12, s. 46.

404. An application relating to tutorship to a person of full age or temporary representation of an incapable person of full age is notified, as applicable, to the person's spouse, father and mother or parents or children of full age. If there are no such persons, it is notified to at least two persons who show a special interest in the person.

An application relating to a protection mandate is notified to the person designated by the mandator to act as mandatary or replacement mandatary or to receive a rendering of account. It is also notified to at least two other persons from the mandator's family or who show a special interest in the mandator.

2014, c. 1, a. 404; 2022, c. 22, s. 143; 2020, c. 11, s. 112.

405. If it is necessary to call a meeting of relatives, persons connected by marriage or civil union, or friends in connection with an application concerning a minor or a person of full age, the notice of meeting is drawn up by the special clerk or the notary, depending on whether the application is presented before the court or before a notary.

The notice of meeting is notified to the relatives, persons connected by marriage or civil union, or friends, informing them of the date and time of the meeting and of the place where they must attend or, as applicable, of the technological means to be used to enable them to communicate with each other. The date of the meeting cannot be less than 10 days nor more than two months after notification.

The meeting is presided over by the special clerk or the notary, as applicable.

2014, c. 1, a. 405; I.N. 2016-12-01.

406. The Public Curator may apply for the institution of tutorship to a person of full age and propose a suitable person to represent the person of full age as provided for in section 14 of the Public Curator Act (chapter C-81) if, within 30 days after the Public Curator's recommendation to that effect is filed with the

court office, the court clerk informs the Public Curator that no other person is applying for the institution of such tutorship.

2014, c. 1, a. 406; 2020, c. 11, s. 113.

CHAPTER IV

LEGAL PERSONS

407. The Attorney General or any interested person may ask the court to annul a legal person's constituting act or impose any other sanction prescribed by law if

(1) the legal person was not constituted in accordance with the law;

(2) juridical personality was obtained unlawfully or by fraud or was granted in ignorance of some essential fact;

(3) the legal person, its founders or their successors or its directors or officers repeatedly act in contravention of the laws governing them, or exercise powers the legal person does not have; or

(4) the legal person does or omits to do something, which act or omission amounts to a waiver of its rights.

The Attorney General or any interested person may also ask the court to annul any instrument amending a legal person's constituting act and any related certificate if the amending instrument contains unlawful provisions or false or erroneous statements.

To apply for the annulment of letters patent that are either a legal person's constituting act or an instrument amending a legal person's constituting act, an interested person must be expressly authorized by the Attorney General.

2014, c. 1, a. 407.

408. A judgment annulling a legal person's constituting act must designate a liquidator to liquidate the property as provided in the applicable legislation or in the Civil Code. The judgment is notified to the enterprise registrar.

The legal costs are paid out of the legal person's patrimony and, if it is insufficient, out of the personal patrimony of its directors and officers. However, when a judgment declares a legal person without share capital to have been unlawfully constituted, the legal costs constitute a personal debt of the persons forming the legal person.

2014, c. 1, a. 408.

TITLE II

APPLICATIONS IN FAMILY MATTERS

CHAPTER I

RULES GOVERNING APPLICATION AND PROCEEDING

409. Applications under Book Two of the Civil Code as well as applications under the Divorce Act (R.S.C. 1985, c. 3 (2nd Suppl.)) are governed by the general rules that apply to all judicial applications, subject to the provisions of this chapter.

2014, c. 1, a. 409.

409.1. The chief justice favours having one and the same judge take charge of a court record.

2024, c. 22, s. 33.

410. An application for the annulment of a marriage or a civil union, for separation from bed and board or as to property, for a divorce or for dissolution of a civil union may be declared to the Land Registrar by either of the spouses. Such a declaration must be made if one of the spouses may claim to have a right in an immovable under the matrimonial or civil union regime or if the immovable serving as the family residence is the property of one of the spouses.

The declaration is made by presenting a notice to the Land Registrar, which the latter enters in the land register. If one of the spouses asks for the cancellation of the entry in the register, the court may order the cancellation subject to a sufficient suretyship being provided.

2014, c. 1, a. 410; 2020, c. 17, s. 64.

411. An originating application whose conclusions pertain exclusively to a support obligation, child custody or related provisional measures cannot be presented before the court less than 10 days after it is served. The application is tried and determined by preference.

If an application with such conclusions is joined with an application for the annulment of a marriage or a civil union, for separation from bed and board, for a divorce or for the dissolution of a civil union, it is heard in the same manner as an application in the course of a proceeding.

2014, c. 1, a. 411.

412. Applications between parents relating to patrimonial rights arising from their community of life may be joined with an application relating to child custody or parental child support obligations if the parents were de facto spouses before the application was instituted.

2014, c. 1, a. 412.

412.1. An action, by a victim of a sexual assault, to claim a financial contribution as support to help them provide for the needs of a child born as a result of the assault may be joined with an action to claim or contest the filiation of that child.

An application to deprive the person who committed the assault of parental authority may be joined with an action to claim the filiation of such a child with regard to the person who committed the assault.

2023, c. 13, s. 50.

413. If one of the conclusions sought in an application is the partition of family patrimony, each party must attach to the case protocol a statement listing all its property and indicating, for each item, whether it is included in the family patrimony.

If a party is seeking support for itself, the application cannot be decided unless the party files an income and expense statement and a balance sheet with the court office at least 10 days before the application is to be presented. The defendant must file such a statement and balance sheet at least five days before the presentation date, unless it admits having the resources to pay the amount sought; even when a party admits as much, the court may ask that it produce a statement of property.

2014, c. 1, a. 413.

414. The parties may make their proof by affidavit. Each party files a single affidavit, but the plaintiff may file a second one if the defendant has also chosen to proceed in this manner. Any further affidavits must be authorized by the court.

2014, c. 1, a. 414; I.N. 2016-12-01.

415. Whenever it is asked to rule on an agreement in a family matter, the court makes sure that each party has given its consent freely and that the agreement sufficiently protects the interests and rights of the parties and the children.

For that purpose, the court may convene and hear the parties, together or separately, in the presence of their lawyers or, as applicable, of the notary presenting the joint application on a draft agreement.

2014, c. 1, a. 415.

416. The court may order a party to pay a provision for costs to the other party if the circumstances so warrant, as when the court notes that without such assistance the other party's financial situation would likely prevent it from effectively conducting its case.

2014, c. 1, a. 416.

CHAPTER II

MEDIATION IN COURSE OF PROCEEDING

DIVISION I

PARENTING AND MEDIATION INFORMATION SESSION

417. Any case in which the interests of the parties and their children are at stake in connection with child custody, spousal or child support, the family patrimony, other patrimonial rights arising from the marriage or civil union or the partition of property between de facto spouses cannot proceed to trial unless the parties have jointly or separately participated in a parenting and mediation information session.

Persons who have filed with the court office a certificate attesting that they have already participated in such an information session in connection with a prior dispute or confirming that they have gone to an assistance organization for persons who are victims that is recognized by the Minister of Justice for help as a person who is a victim of domestic violence are exempted from participating in such a session. In any such case, the court, in the children's interests, may nonetheless order participation in such an information session.

Exceptionally, where required by circumstances to ensure proper case management and orderly conduct of proceedings, or to prevent prejudice to one of the parties or to their children, the court may try the case without the parties having jointly or separately participated in such a session but must order them to take part in such a session within three months after the order, unless the court considers it inappropriate.

2014, c. 1, a. 417; 2020, c. 29, s. 38; 2021, c. 13, s. 175.

418. The information session deals with parenting issues, such as the effects of conflict on the children, and with the parental responsibilities of parties, and explains the nature and purpose of mediation, the process involved and how the mediator is chosen.

2014, c. 1, a. 418.

419. The information session is conducted in a group setting; it is given by two mediators certified in accordance with the regulations under article 619, only one of whom must be a lawyer or a notary. The session may be held using any appropriate technological means available.

If the parties wish to attend separate sessions, their wish must be respected.

After the session, a participation certificate is issued by the Family Mediation Service.

2014, c. 1, a. 419.

DIVISION II

MEDIATION

420. The court may, at any time, stay the proceeding or adjourn the trial to enable the parties to enter into or continue mediation with a certified mediator of their choice, or to ask the Family Mediation Service to work with the parties.

Before making such a decision, the court considers such factors as whether the parties have already met with a certified mediator, whether there is an equal balance of power between the parties, whether there have been incidents of family or spousal violence and whether mediation is in the interests of the parties and their children.

Mediation is governed by the general principles set out in this Code and conducted in keeping with the process provided for in this Code.

2014, c. 1, a. 420.

421. The court may stay the proceeding or adjourn the trial for not more than three months. On or before the expiry of that time, if mediation has not begun or if it has been ended, the proceeding is continued unless the court extends the stay or adjournment, with the parties' consent, for the time it specifies.

The judge who stays the proceeding or adjourns the trial remains seized of the matter, unless the chief justice decides otherwise.

2014, c. 1, a. 421.

422. When intervening at the court's request, the Family Mediation Service designates a mediator and sets the date of the first meeting, which must be held within 20 days after the decision. A mediator chosen by the parties is required to begin the mediation within the same time.

2014, c. 1, a. 422.

423. If the parties do not enter into mediation within the allotted time or if they put an end to mediation before the dispute is resolved, the mediator files a report to that effect with the court office. The mediator also sends the report to the Family Mediation Service, to each of the parties and, if represented, to their lawyers.

The court clerk records the report filing date in the court register, then informs the judge seized of the matter and delivers the case record to the latter so that a trial date can be set. The stay or adjournment ends on the recording of that date in the court register.

2014, c. 1, a. 423.

424. Any part of the mediator's fee that is not borne by the Family Mediation Service is apportioned between the parties based on their respective income or according to their agreement, unless the court orders a different apportionment.

2014, c. 1, a. 424.

CHAPTER III

ASSESSMENT BY PSYCHOSOCIAL ASSESSMENT SERVICE

425. In any family law case in which the interests of a minor child are at stake, the court, on its own initiative or on an application, may order the Psychosocial Assessment Service of the Superior Court to appoint an expert to enlighten the court on any custody-related or other issue affecting the child.

The decision must define the expert's mission and set the time limit within which the expert report is to be submitted with the Psychosocial Assessment Service, which must not exceed three months after the expert's appointment.

2014, c. 1, a. 425; I.N. 2016-12-01.

426. The court clerk immediately notifies the decision as well as the other relevant documents to the Psychosocial Assessment Service. The Service appoints an expert and informs the judge who made the decision or the chief justice of the expert's name.

2014, c. 1, a. 426.

427. The Psychosocial Assessment Service takes the necessary measures to ensure that the appointed expert complies with the time limit for submitting the expert report.

However, if the expert shows that it was impossible in fact to submit the report within the time limit, the expert may, after informing the Service, ask the court to extend the time limit. If an extension is granted, the court clerk so informs the Service.

2014, c. 1, a. 427; I.N. 2016-12-01.

428. The expert submits the report with the Psychosocial Assessment Service, which forwards it to the court clerk. The court clerk sends the report to the judge who ordered the assessment or, if that judge is no longer seized of the matter, to the chief justice or the judge designated by the latter, and to the parties.

2014, c. 1, a. 428; I.N. 2016-12-01.

429. The court may order an institution governed by the Act respecting health services and social services (chapter S-4.2) to give an appointed expert access to any information in a user's record that is necessary for the purposes of the expert's assessment.

2014, c. 1, a. 429.

CHAPTER IV

JOINT APPLICATION FOR SEPARATION FROM BED AND BOARD, DIVORCE OR DISSOLUTION OF CIVIL UNION ON BASIS OF DRAFT AGREEMENT

430. Spouses filing a joint application for separation from bed and board, a divorce or the dissolution of their civil union may, together with the application, submit to the court for approval a draft agreement, dated and signed by them, that provides a complete settlement of the consequences of their application.

The draft agreement applies from the date of the application to the date of the judgment, subject to any provisional measures that the spouses have set out in it.

The draft agreement must identify, if one is required, the liquidator of the matrimonial or civil union regime and of the spouses' other patrimonial rights.

2014, c. 1, a. 430.

431. The joint application lapses if, following an adjournment order, the spouses fail to present an amended draft agreement within three months or any other time limit set by the court. The joint application also lapses if one of the spouses discontinues it and neither of them amends it and continues the proceeding within the following three months.

2014, c. 1, a. 431.

CHAPTER IV.1

APPLICATIONS RELATING TO THE FILIATION OF A CHILD BORN OF A PARENTAL PROJECT INVOLVING SURROGACY

2023, c. 13, s. 51.

431.0.1. Applications relating to the filiation of a child born of a parental project involving surrogacy are presented jointly by the parties to the surrogacy agreement or by one of them.

Such applications must state the child's name, date and place of birth, place of residence and domicile, nationality and status as a Canadian citizen or permanent resident.

They must also state the name of the woman or the person who gave birth to the child, their place of residence and domicile, nationality and status as a Canadian citizen or permanent resident, if applicable.

Applications must contain the same information concerning the person alone or the spouses who formed a parental project involving surrogacy.

2023, c. 13, s. 51.

431.0.2. Applications relating to the filiation of a child born of a parental project involving surrogacy in which the woman or the person who gave birth to the child is domiciled outside Québec are notified to the Minister of Health and Social Services and the latter may intervene as of right as regards those applications.

2023, c. 13, s. 51.

431.0.3. To be admissible, an application relating to the filiation of a child born of a parental project involving surrogacy in which all the parties are domiciled in Québec must be filed together with the information determined by government regulation concerning the profile of the woman or the person who gave birth to the child and of any other party to the surrogacy agreement who provides their reproductive material.

2023, c. 13, s. 51.

431.0.4. To be admissible, an application for recognition of a filiation established outside Québec must be filed together with the child's foreign act of birth or the decision establishing the filiation and the foreign legislation. It must also, if applicable, be accompanied by the certificate of compliance for the project issued by the Minister of Health and Social Services. An application to claim status must also be attached, if applicable.

2023, c. 13, s. 51.

CHAPTER V

APPLICATIONS RELATING TO ADOPTION

431.1. Applications relating to the adoption of a child must state the child's name, date and place of birth, place of residence and domicile, nationality and status as a Canadian citizen, permanent resident or person authorized to stay or settle permanently in Canada.

Such applications must also state, if known, the names of the child's parents of origin, their place of residence and domicile and, if the parents are domiciled outside Québec, their nationality and their status as Canadian citizens, permanent residents or persons authorized to stay or settle permanently in Canada, if applicable.

2017, c. 12, s. 47.

432. Applications relating to the adoption of a minor child that are supported by general consent, by special consent if the child is the subject of a report, or by a declaration of eligibility for adoption are notified to the director of youth protection having jurisdiction in the child's place of residence or, if the child is domiciled outside Québec, in the adopter's place of domicile. In the latter case, the application is also notified to the Minister of Health and Social Services. The director or the Minister may intervene as of right as regards such applications.

If a notice of the applications must be notified to a party or to an interested person, it is notified by the director. The notice must ensure that the adopters remain anonymous to the father and mother, the parents or the tutor and vice versa, and must state the subject matter of the application, the grounds on which the application is based and the conclusions sought.

2014, c. 1, a. 432; 2017, c. 12, s. 48; 2022, c. 22, s. 144.

433. If the adoption process is based on general consent to the child's adoption or on a declaration of eligibility for adoption, the court admits to its hearings any member of the Commission des droits de la personne et des droits de la jeunesse or any other person expressly authorized to attend by the Commission. Such a person cannot disclose, or be compelled to disclose, anything that was said or disclosed or that occurred at a hearing.

2014, c. 1, a. 433; 2017, c. 12, s. 49.

434. An application by a person who, having given consent to a child's adoption and having failed to withdraw it within the prescribed time, is seeking to have the child returned to them is served on the person to whom the child was entrusted or, if general consent was given, notified to the director of youth protection. The latter gives notice of the application to the person having or exercising parental authority, to the father or mother or to one of the parents if they no longer have parental authority and, if applicable, to the tutor.

In either case, unless all the parties agree otherwise, the court takes the necessary measures to ensure that the persons seeking the child's return never meet the adopters face to face and, if general consent was given to the child's adoption, can never identify them or be identified by them.

2014, c. 1, a. 434; I.N. 2016-12-01; 2022, c. 22, s. 145.

435. An application for a declaration of eligibility for adoption is served on the child's father and mother or on the parents, if known, on the child's tutor, if the child has one, and on the child if the child is 14 years of age or older; the judge may order that the application be served on the child if the child is 10 years of age or older.

2014, c. 1, a. 435; 2022, c. 22, s. 146.

436. An application for placement of a child is made by the adopter and the director of youth protection; if special consent was given to the child's adoption, the application may be made by the adopter alone.

An application for placement of a child may also be made by the child's parent or a spouse who, alone, made an application for a declaration of eligibility for adoption in accordance with article 560 of the Civil Code.

2014, c. 1, a. 436.

436.1. To be admissible, an application for placement and an application for an order of transfer of a child in relation to an adoption based on special consent while the child is not the subject of a report must be filed together with a document containing the information relating to the parent of origin in order to complete, if applicable, a summary of the child's family and medical antecedents as provided for in the Youth Protection Act (chapter P-34.1).

2022, c. 22, s. 147.

437. A notice of the application for placement, stating the applicant's name and place of domicile, is notified to the child concerned if the child is 10 years of age or older. The director of youth protection notifies a notice of the application to the child's father, mother, parents or tutor if they are domiciled in Québec and consented to the adoption in the year preceding the application.

If the adoption process is based on special consent to the child's adoption, the notice of the application for placement is notified by the applicant.

2014, c. 1, a. 437; 2017, c. 12, s. 50; 2022, c. 22, s. 148.

438. An application for the revocation of a placement order is notified to the director of youth protection, who gives notice of the application to those to whom the application for placement was notified.

If special consent was given to the child's adoption, the application for revocation is served on the adopter and on the child if the child is 10 years of age or older.

2014, c. 1, a. 438.

439. If a report stating that the child has not adapted to the adoptive family is filed with the court, the court sends the report to the adopter and, if applicable, to the child's tutor or lawyer, and informs them of the time within which they may contest the report.

If the child is 14 years of age or older, the court may send the report to the child if it sees fit; it is required to do so if it intends to dismiss the application for adoption on the basis of the report.

2014, c. 1, a. 439.

440. An application for adoption is made by the adopter. If there are two adopters, the application is made jointly.

2014, c. 1, a. 440.

441. In addition to being served on the person concerned, an application for the adoption of a person of full age is notified to the person's married or civil union spouse, children 14 years of age or older and ascendants.

2014, c. 1, a. 441.

442. To be admissible, an application for recognition of an adoption order made outside Québec must be filed together with certified copies of the adoption order and the foreign legislation. The applicant may attach ancillary applications such as for a change of the adoptee's surname or given name.

2014, c. 1, a. 442; I.N. 2016-12-01.

442.1. The parties to an agreement referred to in article 579 of the Civil Code may, without presenting an application to the courts, call on a mediator who is certified in accordance with the regulations made under article 619 to assist them in negotiating or reviewing such an agreement following the order of placement or whenever a dispute arises on how the agreement is to be applied. Articles 617 to 619 apply.

2017, c. 12, s. 51.

CHAPTER VI

APPLICATIONS RELATING TO SUPPORT OBLIGATIONS

443. The Minister of Justice, by regulation, establishes standards for determining the child support payable by a parent. The standards are established on the basis of, among other factors, the combined basic child support contribution payable by the parents, childcare expenses, postsecondary education expenses, special expenses for the child and the custodial time of each parent.

The Minister of Justice prescribes and publishes in the *Gazette officielle du Québec* the statement form and the support determination form the parties are required to file. The Minister also prescribes and publishes a table determining the combined basic child support contribution payable by the parents on the basis of their disposable income and the number of children they have. The Minister also identifies the documents that must be filed with the forms.

2014, c. 1, a. 443; 2020, c. 29, s. 39.

444. No ruling on a support obligation may be made unless the parties have each filed a statement containing the information prescribed by regulation with the court office and, in the case of a parental child support obligation, the support determination form duly completed by each party and the other prescribed documents.

If the defendant fails to file those documents, their defence cannot be heard, and the court may make a ruling after hearing, and examining the documents filed by, the plaintiff. Before making a ruling, the court may nevertheless relieve the defendant from the default, subject to the conditions it determines.

The statements filed with the court office are destroyed if no support is granted by the court or if no judgment is rendered within one year after they are filed.

2014, c. 1, a. 444; I.N. 2016-12-01.

445. Unless the parties have made an agreement on the delivery of documents, the applicant parent notifies the application for child support, together with the prescribed documents, to the other parent. After receiving notification of the application, the latter must in turn notify the prescribed documents to the applicant at least five days before the application is to be presented.

2014, c. 1, a. 445.

446. If the particulars in a prescribed document are incomplete or contested, or in any circumstances it considers it necessary, the court may supplement the information. The court may determine a parent's income by considering, among other things, the value of the parent's assets and the income they generate or could generate, as it considers appropriate.

2014, c. 1, a. 446.

447. Child support is determined without consideration of any spousal support claimed by a parent for themselves.

A judgment awarding child support and spousal support must clearly specify the amount to be paid in child support and the amount to be paid in spousal support.

The support determination form used by the court to determine the child support payable must be attached to the judgment awarding child support.

2014, c. 1, a. 447.

448. Parents who agree on a child support amount that differs from the amount that would be payable under the child support determination rules must clearly set out, in their agreement and in the support determination form, the reasons for the difference.

If the judgment awards child support that does not reflect the parents' agreement or, in the case of a contested application, the particulars in the forms filed by the parents, the judgment must clearly state the reasons for the difference, referring, if applicable, to the relevant sections of the form.

2014, c. 1, a. 448; I.N. 2016-12-01.

449. If an agreement is reached on an application relating to a support obligation and one of the parties is receiving benefits under a social assistance, social solidarity or basic income program created under the Individual and Family Assistance Act (chapter A-13.1.1), that party must state as much in the agreement. If a party was receiving benefits under such a program during any period covered by the agreement, that fact must also be stated in the agreement.

2014, c. 1, a. 449; 2018, c. 11, s. 24.

450. As soon as a judgment awarding support or varying a judgment awarding support is rendered, the court clerk enters the relevant information from the judgment and statements in the register of support payments and sends the statements to the Minister of Revenue with the judgment.

Information entered in the register of support payments is confidential.

2014, c. 1, a. 450.

CHAPTER VII

APPLICATIONS RELATING TO PARENTAL AUTHORITY

451. An application for deprivation of parental authority or for withdrawal of an attribute of parental authority or of its exercise is served on the persons having parental authority and the child's tutor and notified to the director of youth protection having jurisdiction in the child's place of residence. The director may intervene as of right as regards the application.

An application by the father and mother or the parents, or by either of them, to have their authority restored is served on the person having parental authority or, as applicable, on the tutor and notified to the persons who were party to the application for deprivation or withdrawal.

2014, c. 1, a. 451; I.N. 2016-12-01; 2022, c. 22, s. 149.

452. The court, even on its own initiative, may order the establishment of a tutorship council so that it may seek its advice on the designation of a person to hold parental authority or on the appointment of a tutor.

2014, c. 1, a. 452.

CHAPTER VIII

JUDGMENT

453. When granting the annulment of a marriage or a civil union, separation from bed and board, a divorce or the dissolution of a civil union, the court rules on ancillary applications, such as applications relating to the custody, maintenance or education of the children or to child or spousal support. At the same time or at a later date, if warranted by the circumstances, the court rules on issues relating to family patrimony and other patrimonial rights arising from the marriage or civil union.

2014, c. 1, a. 453.

454. The court seized of an application for the homologation of an agreement or a draft agreement between the parties may amend the agreement or draft agreement on the basis of the interests of the children or one of the spouses. The court may also postpone its decision until the parties have amended the agreement or draft agreement, or deny homologation, in which case the proceeding continues.

2014, c. 1, a. 454.

455. A judgment ordering the drawing up or correction of an act of civil status or the alteration of the register of civil status must specify the entries to be made in the register. The judgment is binding on the registrar of civil status.

2014, c. 1, a. 455.

456. The court clerk notifies a judgment granting the annulment of a marriage or a civil union, separation from bed and board or as to property, a divorce or the dissolution of a civil union to the registrar of civil status, the personal and movable real rights registrar, Retraite Québec, the depositary of the marriage contract or civil union contract and the depositary of any contract modifying the matrimonial or civil union regime.

The depositary is required to bring to the attention of persons who consult the contract or a copy of it the fact that a judgment has been rendered in connection with the contract and to give them the information needed to access the judgment, including the judgment date, the court record number, the court that rendered the judgment, and the judicial district in which the judgment was rendered.

2014, c. 1, a. 456; 2015, c. 20, s. 61; 2023, c. 23, s. 9.

456.1. The court clerk notifies every judgment concerning the adoption of a minor child to the youth protection director having jurisdiction in the place where the child resides. In addition, if the child or the adopter is domiciled outside Québec, the clerk notifies the judgment, together with, if applicable, the certificate issued under article 573.1 of the Civil Code, to the Minister of Health and Social Services.

2017, c. 12, s. 52.

456.2. The court clerk notifies every judgment concerning the filiation of a child born of a parental project involving surrogacy in which the woman or the person who gave birth to the child is domiciled outside Québec to the Minister of Health and Social Services.

2023, c. 13, s. 52.

457. If a judgment varying support obligations, child custody or provisional measures is rendered in a different judicial district than the one in which the initial judgment was rendered, the court clerk sends the judgment to the court clerk of the district in which the initial judgment was rendered.

2014, c. 1, a. 457.

Not in force

457.1. The court clerk sends to the Minister of Employment and Social Solidarity, so that the Minister may file it in the register kept under article 542.10 of the Civil Code, the judgment regarding the filiation of a child born of a parental project involving surrogacy in which all the parties involved are domiciled in Québec, as soon as the judgment has become final. The court clerk also sends to the Minister, for the same purpose, the information filed with the application under article 431.0.3.

2023, c. 13, s. 53.

CHAPTER IX

OPPOSITION TO MARRIAGE OR CIVIL UNION

458. An opposition to a marriage or civil union must be notified, at least five days before the date the opposition is to be presented, to the officiant, to the registrar of civil status and to the intended spouses.

Unless it is abusive, the court admits the opposition and sets an early hearing date. Admission of the opposition stays the solemnization of the marriage or civil union. If the opposition is not presented on the scheduled date, any party may obtain a default certificate from the court clerk. On receiving notification of the default certificate, the officiant may proceed with the solemnization of the marriage or civil union.

When dismissing an opposition, the court, on an application, may immediately order the opposer to pay damages or may schedule a date to hear evidence on damages. The court may also, on an application by the opposer, order that damages be paid by anyone who takes or threatens to take reprisals against the opposer because of the opposer's opposition.

2014, c. 1, a. 458; 2016, c. 12, s. 20.

TITLE III

APPLICATIONS RELATING TO SUCCESSIONS, PROPERTY, SECURITY AND EVIDENCE

CHAPTER I

PROBATE OF WILLS AND LETTERS OF VERIFICATION

DIVISION I

PROBATE OF WILLS

459. When it would prove impractical or too costly to call all the known successors to the probate of a will, the special clerk may grant an exemption from that requirement and determine the persons to be notified by the applicant or the notary seized of the probate application.

2014, c. 1, a. 459.

460. If the original of the will is in the hands of a third person, the special clerk may order the person to file it with the court office or to deliver it to the notary designated by the special clerk so that the notary may examine it.

2014, c. 1, a. 460.

461. A will probated by the court is deposited at the court office. The court clerk issues to any interested person, on request, certified copies of the will, the judgment probating the will and any evidence produced in support of the probate application.

A will probated by a notary is attached to the minutes of the probate and kept in the notary's records. The notary issues certified copies of the will and minutes of the probate to any interested person on request.

2014, c. 1, a. 461.

462. A will may, subsequent to its probate, be contested by any interested person who did not oppose the probate application or who, having opposed it, raises grounds they were not in a position to raise at the time.

2014, c. 1, a. 462.

DIVISION II

LETTERS OF VERIFICATION

463. Any interested person may apply for letters of verification, for use outside Québec, to prove their capacity as heir, legatee by particular title or liquidator of the succession.

The letters of verification certify that the succession has opened and identify the liquidator of the succession. In the case of an intestate succession, the letters of verification also certify that the property of the deceased devolves to the persons named in the proportions specified. In the case of a testamentary succession, the letters of verification certify that it has been proved that the will, a copy of which is attached to the letters of verification, is the only will made by the deceased or the last will made by the deceased; in the latter case, they certify that the will revokes previous wills in whole or in part.

2014, c. 1, a. 463.

464. The application for letters of verification is notified to the liquidator of the succession, if known, and to all known heirs and legatees by particular title who are resident in Québec.

2014, c. 1, a. 464.

465. Letters of verification may be revoked or corrected on an application by any interested person who did not oppose their issue or who, having opposed it, raises grounds they were not in a position to assert at the time.

2014, c. 1, a. 465.

466. The court clerk or the notary issues certified copies of letters of verification to any interested person on request. However, if the letters of verification are contested, no copies may be issued until the application has been dealt with.

If letters of verification are corrected by a judgment, the court clerk issues new letters of verification to replace the initial ones.

2014, c. 1, a. 466; I.N. 2016-12-01.

CHAPTER II

APPLICATIONS RELATING TO PUBLICATION OF RIGHTS AND TO ACQUISITIVE PRESCRIPTION OF AN IMMOVABLE

467. An application relating to registration in the land register or in the register of personal and movable real rights, or to the correction, reduction or cancellation of an entry in either register, must be supported by a statement, certified by the registrar, setting out the rights registered in the register in respect of the property, the nature of the universality, or the name of the grantor.

2014, c. 1, a. 467.

468. An application relating to acquisitive prescription of an immovable must be supported by a recent statement, certified by the Land Registrar, setting out the rights registered in the land register. It must also be supported by a copy of or an extract from the cadastral plan or, if the immovable is not immatriculated or is a part of a lot, by a technical description of the immovable and the related plan, both prepared by a land surveyor. If a construction has been erected on the immovable, a location certificate must also be attached.

The court that is to determine the right of ownership may, even on its own initiative, order a determination of the boundaries of the immovable if the accuracy of the plan is contested by the owners of the adjoining immovables.

2014, c. 1, a. 468; 2020, c. 17, s. 65.

CHAPTER III

BOUNDARY DETERMINATION

469. A formal notice for the determination of boundaries must set out the demand and the reasons for it, without any reference to disturbances, damage or other claims. It must describe the immovables concerned and include the name and contact information of the land surveyor proposed to perform the operations.

If, following the formal notice, the owners agree to a boundary determination and on the choice of a land surveyor, they record their agreement in a document stating the reasons for the boundary determination, describing the immovables concerned and identifying the land surveyor.

In the absence of an agreement, the person who gave the formal notice may ask the court to rule on the right to a boundary determination or to designate a land surveyor.

2014, c. 1, a. 469; I.N. 2016-12-01.

470. The land surveyor chosen by the owners or designated by the court draws up a boundary determination report under the surveyor's professional oath and in the surveyor's capacity as an expert. The report must give an account of all the operations necessary to determine the boundaries of the immovables concerned. It must include a plan of the premises, state the respective contentions of the owners concerned and establish the boundaries between the immovables that appear to the surveyor to be the most accurate. The land surveyor, after filing the report with the court office if the land surveyor was designated by the court, notifies a copy of it to the owners and informs them of the consequences of their accepting, not accepting or contesting the report.

The expert fees are apportioned equally among the owners.

2014, c. 1, a. 470.

471. If the owners accept the boundary determination report, they record their agreement in writing, sign it in the presence of the land surveyor and ask the land surveyor to place boundary markers, to draw up minutes of the boundary marking operations and to register the minutes in the land register; the report may be attached to the minutes. The boundary determination is, between the parties, declaratory as regards the boundary lines of the immovables and ownership rights.

2014, c. 1, a. 471.

472. If one of the owners does not accept the boundary determination report, that owner, within one month after the notification of the report, may ask the court to rule on the boundary determination and determine the boundary lines of the immovables. If no such application is instituted within that strict time limit, the other owner may ask the court to homologate the report.

After examining the report, the court rules on the boundary determination, determines the boundary lines of the immovables and orders the land surveyor to place boundary markers in the presence of witnesses, to draw up minutes of the boundary marking operations and to register the minutes and the judgment in the land register; the report may be attached to the minutes. The court issues the same orders if it agrees to homologate the report.

The judgment is, for all, declaratory as regards the boundary lines of the immovables and ownership rights, and the registration of the minutes of the boundary marking operations constitutes proof of the execution of the judgment.

2014, c. 1, a. 472.

473. If, in the course of the proceeding, an owner transfers their rights in the immovable that is the subject of the boundary determination, the transferee may be compelled to continue the proceeding.

2014, c. 1, a. 473.

474. If a boundary determination might affect immovables that are not adjoining to the plaintiff's immovable, the court, even on its own initiative, may order the owners of the non-adjoining immovables to intervene in the matter. A land surveyor appointed by the parties may also ask the court to order such intervention.

2014, c. 1, a. 474.

475. The costs of the boundary marking operations and of the minutes are apportioned according to the length of the boundary line of each immovable, as determined.

2014, c. 1, a. 475.

CHAPTER IV

CO-OWNERSHIP AND PARTITION

476. In granting an application for the partition of undivided property, the court may order either a partition in kind or the sale of the property.

The court may appoint an expert, or more than one expert if necessary, to assess the value of the property, divide the property into lots and distribute the lots, if the property can conveniently be divided and distributed, or to sell the property in the manner determined by the court. On completion of the operations, the expert prepares a report, files it with the court office and delivers a copy to the co-owners.

The expert must have the report homologated; the homologation application may be contested by any interested person. When homologating the report, the court may, if necessary, direct the court clerk or any other person it designates to hold a drawing of the lots; minutes of this operation must be filed in the court record.

2014, c. 1, a. 476.

477. An application relating to divided co-ownership of an immovable is notified to the syndicate of co-owners, which must inform all the co-owners of the subject matter of the application within five days after the notification.

2014, c. 1, a. 477.

CHAPTER V

SAFETY DEPOSIT BOXES

478. A person may open a safety deposit box leased by another person in a financial institution if authorized to do so by that person or, if that person is deceased, by the liquidator of the succession or, in the absence of a liquidator, by the successors. As well, a person may open such a safety deposit box if authorized by the court to do so.

The court grants its authorization only if it is satisfied that all those who may have rights in the property contained in the safety deposit box have been notified of the application or that sufficient effort has been made to notify them. The court may authorize the opening of the box subject to the conditions it specifies.

When the safety deposit box is opened, a notary or a bailiff draws up minutes stating the names of the persons present and describing the content of the box and the property removed from the box. If the lessee of the box is deceased, only a notary is authorized to draw up the minutes.

2014, c. 1, a. 478.

479. Before the safety deposit box is opened, the applicant pays to the lessor an amount sufficient to cover the cost of opening and restoring the box.

2014, c. 1, a. 479.

CHAPTER VI

APPLICATIONS RELATING TO SECURITY

480. An application relating to security must be supported by a recent statement from the relevant register, certified by the registrar.

2014, c. 1, a. 480.

481. A judgment ordering the forced surrender of property specifies the time within which, the manner in which and the person to whom the property is to be surrendered. The judgment also orders that, on failure to surrender the property within the time specified, the debtor or the possessor or holder of the property be evicted, or the property be taken away from them, as applicable.

2014, c. 1, a. 481.

482. An order to surrender property issued before the expiry of the time specified in the prior notice of the exercise of a hypothecary right may be annulled by the court on the application of the possessor or holder of the property if the allegations in the original application that led to the issue of the order are insufficient or false.

The application for the annulment of the order must be notified to all the parties to the proceeding within five days after notification of the order.

If the order is annulled, the creditor is required to return the property or pay back the alienation price, as applicable.

2014, c. 1, a. 482.

483. Where the identity of the owner or of one of the owners of hypothecated property is unknown or uncertain and the application was notified by public notice, the court may authorize the creditor to exercise a hypothecary right if no one contests the application or exercises the rights of the hypothecary debtor or of the person against whom the right is exercised.

2014, c. 1, a. 483.

CHAPTER VII

COPIES OF OR EXTRACTS FROM NOTARIAL ACTS

I.N. 2016-12-01.

484. Notaries are required, on payment of their professional fees and expenses, to issue a copy of or an extract from the acts forming part of their records and required to be published to the parties to the act, their heirs or their representatives, or to otherwise give them access to those acts.

They are also required, on receipt of such a payment, to issue a copy of or an extract from the acts that are not required to be published, or to otherwise give access to those acts,

(1) to the parties to the act;

(2) in the case of a protection mandate that has not been revoked, if it is established to the notary's satisfaction that the incapacity of the mandator is such that the mandator may need to be represented in the exercise of his civil rights, to the mandator's spouse or to close relatives and persons closely connected to the mandator by marriage or civil union as well as to any person who shows a special interest in the mandator;

(3) in the case of an act containing testamentary provisions that have not been revoked, to the liquidator of the succession, an heir, a successor, an heir by particular title or to a person who, in the absence of testamentary provisions, would have been called to the succession, on proof of the death of the testator or donor; and

(4) to any other person, where provided for by law.

This article also applies to the assignee of notarial records or of part of notarial records, to the provisional custodian of such records, to any other legal depositary and to the mandatary referred to in section 89 of the Notaries Act (chapter N-3).

2014, c. 1, a. 484; I.N. 2016-12-01; 2023, c. 23, s. 10.

485. If a notary refuses, or fails to respond, any person who establishes their right or their interest may request a court order directing the notary to issue a copy of an act or an extract from an act or to otherwise give access to it.

The order specifies the date and time when access is to be given. It must be notified in sufficient time to the notary; the notary certifies on the act that they are acting on the order of the court.

2014, c. 1, a. 485; I.N. 2016-12-01; 2023, c. 23, s. 11.

CHAPTER VIII

RECONSTITUTION OF CERTAIN DOCUMENTS

486. When the original of an authentic act or of a public register has been lost, destroyed or removed, any person holding an authentic copy of or extract from the act or register, or any interested person, may ask the court to authorize or order that it be deposited with the public officer the court designates to serve as the original.

The applicant pays the depositing fee and provides a new copy to the original holder as well as compensation for the disbursements incurred.

2014, c. 1, a. 486; 2023, c. 23, s. 12.

487. When an authentic act or a public register cannot be replaced, the public officer who had custody of the act or register establishes and implements a procedure for reconstituting it.

If the public officer does not act in a timely manner, any interested person may ask the court to designate a person to establish a reconstitution procedure.

The court homologates the reconstituted document on being satisfied that the procedure followed was suitable and provides a valid reconstitution.

2014, c. 1, a. 487.

488. The homologated reconstituted document serves as the original; it is deposited with the public officer who had custody of the original or with that officer's transferee.

Homologation does not prevent an interested person from contesting the content of the document or asking for corrections or additions.

2014, c. 1, a. 488.

TITLE IV

APPLICATIONS INVOLVING PRIVATE INTERNATIONAL LAW

CHAPTER I

GENERAL PROVISIONS

489. Any person having the capacity under the applicable law to take part in judicial proceedings may do so before the courts of Québec. If, under the law governing such capacity, the person must be represented, assisted or authorized, they must, before the courts of Québec, be represented, assisted or authorized in the manner specified by that law or by Québec law.

Any person who may take part in judicial proceedings in a certain capacity under the law of a foreign State may do so in the same capacity before the courts of Québec.

Any group of persons authorized by its constituting Act to take part in judicial proceedings may do so before the courts of Québec.

2014, c. 1, a. 489.

490. Where a Québec court is seized of a dispute that involves a foreign element and the defendant has no domicile, residence or establishment in Québec, the latter has 30 days to answer the summons and the parties have three months from the date on which the originating application is served to file a case protocol; these time limits may be shortened if the parties consent or if, in an urgent situation, the judge so orders.

2014, c. 1, a. 490.

CHAPTER II

PRELIMINARY EXCEPTIONS AND SURETYSHIP

491. An application urging a Québec court to decline international jurisdiction, stay its ruling or dismiss an application for lack of international jurisdiction is made in the same way as any preliminary exception.

When ruling on its international jurisdiction, the court considers the guiding principles of procedure in addition to the provisions of the Civil Code.

2014, c. 1, a. 491.

492. If a plaintiff is not resident in Québec or, being a legal person, is not domiciled in Québec, the defendant may, at any stage of the proceeding, require that the plaintiff be ordered, under pain of dismissal of the application, to provide a suretyship, within a specified time, as security for the legal costs the court could award against the plaintiff.

A person acting for another person under the rules of representation before the courts may also be required to provide a suretyship if the representative or one of the representative's mandators is not resident in Québec or, being a legal person, is not domiciled in Québec.

In determining the amount of the suretyship, the court considers the nature, complexity and importance of the case, including the costs involved, as well as the plaintiff's financial situation and the value of the plaintiff's property in Québec; if the plaintiff is acting on behalf of a mandator who is not resident in Québec, the court considers the mandator's financial situation. On a party's request, the court may increase or reduce the amount of suretyship if warranted by developments in the case or by the plaintiff's circumstances.

2014, c. 1, a. 492.

493. No suretyship covering legal costs may be ordered in judicial proceedings relating to family matters or in situations that are subject to the Act respecting the civil aspects of international and interprovincial child abduction (chapter A-23.01) or the Act to secure the carrying out of the Entente between France and Québec respecting mutual aid in judicial matters (chapter A-20.1).

2014, c. 1, a. 493.

CHAPTER III

INTERNATIONAL NOTIFICATION

494. In States party to the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, made at The Hague on 15 November 1965, international notification is made in accordance with the Convention, which is reproduced in a schedule to this Code and has force of law in Québec.

In States not party to the Convention, notification is made as provided for in Book I or in accordance with the law in force in the place where the notification is made. The court, on request, may authorize a different method of notification if it is required by the circumstances.

The certificate of notification is sent to the notifying party through the same channels as those used to send the request for notification.

2014, c. 1, a. 494.

495. If it is established that no certificate of notification was received within six months after an originating application was sent to a foreign State for notification in that State according to a method recognized by the law of that State for the notification of pleadings from abroad, despite reasonable efforts to secure the certificate through the competent authorities of the foreign State, the court may render judgment against the defendant.

A party against which a default judgment is so rendered following failure to answer the summons or defend on the merits may, within one year after the judgment date, apply for the revocation of the judgment if it can show that, by no fault of its own, it did not become aware of the proceeding in sufficient time to file a

defence or to exercise a recourse against the decision, and if the grounds raised in its defence do not appear completely unfounded.

2014, c. 1, a. 495.

496. The Minister of Justice, on a request received by the Government through diplomatic or consular channels, may direct a bailiff to notify a pleading from a foreign State to a person in Québec.

The pleading to be notified must be certified by an officer of a court of justice of the place from which it originates. If it is not in French, it must be accompanied by a certified translation, and the certificate of notification must state that a translation is attached to the notified pleading.

The notifying party pays the notification costs in advance or undertakes to reimburse them, unless otherwise provided by an international commitment binding on Québec.

2014, c. 1, a. 496; 2022, c. 14, s. 143.

CHAPTER IV

CALLING OF WITNESSES

497. A person resident in another province or in a territory of Canada may be called to attend at court as a witness. The witness's testimony is heard at a distance unless it is established to the satisfaction of the court that attendance in person is necessary or possible without any major inconvenience to the witness.

The court issues a certificate in keeping with the model established by the Minister of Justice and with the requirements of the law of the witness's place of residence if it is established that the witness's attendance at court is necessary to resolve the matter regarding which the witness is called to attend. The subpoena, together with the advance on the witness indemnity and the certificate, must be homologated and notified in accordance with the law of the witness's place of residence.

During the period in which the witness is present to attend at the court, the witness is deemed not to be subject to the jurisdiction of Québec courts otherwise than as a witness in the matter regarding which the witness was called to attend at court. Furthermore, the witness enjoys immunity that prohibits notifying pleadings to, undertaking execution measures against and compelling or imprisoning the witness under Québec law, unless it results from a fact that occurred during that period.

A defaulting witness resident outside Québec, unless the person is in Québec at the time of the default, may only be punished by the court of their residence, on the face of the certificate of default issued by the court seized.

2014, c. 1, a. 497; 2020, c. 12, s. 61.

498. The court homologates a subpoena issued by an authority in another province or in a territory of Canada if it is accompanied by the advance on the witness indemnity and a certificate stating that the authority is convinced that the witness's attendance at court is necessary to resolve the matter regarding which the witness is called to attend.

If the witness's attendance in person is required, the court homologates the subpoena only if the law of the witness's place of residence provides for immunity similar to that provided for in article 497.

Once homologated, the subpoena must be notified to the witness at least 10 days before the time at which the witness is scheduled to attend at court.

2014, c. 1, a. 498; 2020, c. 12, s. 62.

CHAPTER V

ROGATORY COMMISSIONS

DIVISION I

ROGATORY COMMISSION ISSUED IN QUÉBEC

499. The court may, on the parties' application, appoint a commissioner to examine a witness or to gather evidence in a foreign State if the court is convinced that the witness cannot be examined or the evidence gathered using technological means.

If the application concerns a person who is domiciled or resident in a foreign State, the court may issue a rogatory commission either to a competent authority in that State or to Canadian diplomatic or consular authorities. If required by the foreign State, the decision is accompanied by a translation, the cost of which is borne by the party that wishes to conduct the examination.

A commission for the examination of a person in active service in the Canadian Armed Forces outside Québec is addressed to the Judge-Advocate General to be executed by a person designated by the latter.

2014, c. 1, a. 499.

500. A decision appointing a commissioner sets out the names of the persons to be examined and the manner in which they are to be sworn, the instructions needed to guide the commissioner in the execution of the commission, and the time within which the commissioner's report must be filed; it may also determine an amount to cover the commissioner's expenses and disbursements and direct that it be filed with the court office by the party that applied for the commission.

The party that applied for the commission, or if that party fails to act, the party that joined in obtaining it, is required to see that it is delivered and executed promptly.

2014, c. 1, a. 500.

501. If a party wishes to be represented at the examination, it must advise the commissioner in sufficient time and provide the name and address of its representative; the commissioner is required to give the representative at least five days' notice of the date, time and place the proceedings in execution of the commission are to take place.

2014, c. 1, a. 501.

502. A party may ask the court to attach written examinations and written cross-examinations to the commission.

Whether or not any questions have been formulated in advance, the commissioner may ask a witness any relevant question and allow any relevant question to be asked. The commissioner reserves any objections to evidence, the parties retaining the right to present them before the court.

2014, c. 1, a. 502.

503. Within the time specified in the decision, the commissioner notifies to the court clerk a report on the execution of the commission together with the transcripts or recordings of the witness examinations, attested by the commissioner, and the exhibits produced by the witnesses; the documents must be in a sealed envelope bearing a list of its content and the case name.

An unjustified failure to file a commission report cannot prevent the court from hearing the case.

2014, c. 1, a. 503.

DIVISION II

ROGATORY COMMISSION ISSUED IN FOREIGN STATE

504. A foreign party or authority may apply to the court for execution of a rogatory commission. The court may appoint a commissioner to examine a witness or to gather evidence if no commissioner is designated in the commission.

The same rules, with the necessary modifications, apply to an application presented by a commission of inquiry established by the Governor General in Council or a Lieutenant Governor in Council.

2014, c. 1, a. 504.

505. The rogatory commission is executed in accordance with the rules of this Code, unless the foreign authority has requested a different procedure. The foreign authority must in any event give an undertaking to guarantee the payment of costs.

The party that applied for execution of the commission informs the foreign authority of when and where the proceedings are to take place.

2014, c. 1, a. 505.

506. The documents attesting to the execution of the rogatory commission, or the court decision refusing to allow its execution, are sent to the foreign authority through the same channels as those used to send the application for execution of the commission.

2014, c. 1, a. 506.

CHAPTER VI

RECOGNITION AND ENFORCEMENT OF FOREIGN DECISIONS AND FOREIGN PUBLIC DOCUMENTS

507. The recognition and enforcement of a decision rendered outside Québec is sought by means of an originating application.

It may also be sought by means of an incidental application in the course of a proceeding by any of the parties.

2014, c. 1, a. 507.

508. A party seeking the recognition or the enforcement of a foreign decision attaches the decision to the application, together with a certificate from a competent foreign public official stating that the decision is no longer appealable in the State in which it was rendered or that it is final or enforceable.

If the decision was rendered by default, certified documents showing that the originating application was properly notified to the defaulting party must also be attached to the application.

Documents in a language other than French or English must be accompanied by a translation certified in Québec. The translation must be in French if the party seeking the recognition or the enforcement of the foreign decision is a legal person.

2014, c. 1, a. 508; 2022, c. 14, s. 144.

BOOK VI

SPECIAL PROCEDURES

I.N. 2016-12-01.

TITLE I

PROVISIONAL AND CONTROL MEASURES

CHAPTER I

INJUNCTION

509. An injunction is an order of the Superior Court directing a person or, in the case of a legal person, a partnership or an association or another group not endowed with juridical personality, its officers or representatives to refrain from or cease doing something or to perform a specified act.

Such an injunction may direct a natural person to refrain from or cease doing something or to perform a specified act in order to protect another natural person whose life, health or safety is threatened. Such an injunction, called a protection order, may be obtained, in particular, in a context of violence, such as violence based on a concept of honour. A protection order may only be issued for the time and on the conditions determined by the court, without however exceeding three years.

A protection order may also be requested by another person or a body if the threatened person consents to it or, failing that, with the authorization of the court.

A judgment granting an injunction is served on the parties and the other persons identified in the judgment.

2014, c. 1, a. 509; 2016, c. 12, s. 21.

510. A party may ask for an interlocutory injunction in the course of a proceeding or even before the filing of the originating application if the latter cannot be filed in a timely manner. An application for an interlocutory injunction is served on the other party with a notice of its presentation.

In an urgent case, the court may grant a provisional injunction, even before service. A provisional injunction cannot be granted for a period exceeding 10 days without the parties' consent.

2014, c. 1, a. 510.

511. An interlocutory injunction may be granted if the applicant appears to have a right to it and it is judged necessary to prevent serious or irreparable prejudice to the applicant or to avoid creating a factual or legal situation that would render the judgment on the merits ineffective.

The court may grant an interlocutory injunction subject to a suretyship being provided to cover the costs and any resulting prejudice.

It may suspend or renew an interlocutory injunction for the time and subject to the conditions it determines.

2014, c. 1, a. 511.

512. If an interlocutory injunction is granted, it is served on the other party and the other persons identified.

If the originating application has not yet been served, it is served with the injunction; if the originating application has not yet been filed, the injunction is served without the originating application, but the latter must be served within the time set by the court.

2014, c. 1, a. 512.

513. An injunction cannot be granted to restrain judicial proceedings or the exercise of an office within a legal person established in the public interest or for a private interest, except in the cases described in article 329 of the Civil Code.

2014, c. 1, a. 513.

514. An injunction remains in force despite an appeal; an interlocutory injunction remains in force despite a judgment on the merits dissolving the injunction if the applicant initiates an appeal.

In either case, a judge of the Court of Appeal may provisionally stay the injunction for a specified time.

2014, c. 1, a. 514.

515. When imposing a contempt sanction for violation of an injunction, the court may order the destruction or removal of anything done contrary to the injunction.

2014, c. 1, a. 515; I.N. 2016-12-01.

CHAPTER II

SEIZURE BEFORE JUDGMENT AND SEQUESTRATION

DIVISION I

SEIZURE BEFORE JUDGMENT

516. The purpose of a seizure before judgment is to place property in the hands of justice while a proceeding is pending. A seizure before judgment is carried out in the same manner and according to the same rules as a seizure after judgment, subject to the rules of this chapter.

A seizure before judgment may be carried out before the commencement or in the course of a proceeding or while the case is under appeal, but in the latter case with the authorization of the court of first instance.

A third person is given custody of the seized property, unless the seizor authorizes the bailiff to leave the property in the custody of the person from whom it is seized.

2014, c. 1, a. 516.

517. A plaintiff, as of right, may seize the following before judgment:

(1) movable property the plaintiff has the right to revendicate;

(2) movable property for whose price the plaintiff is entitled to be collocated by preference and which is being used in such a manner as to jeopardize the realization of the plaintiff's prior claim; and

(3) movable property the plaintiff is permitted by law to seize in order to secure the exercise of rights in the property.

However, the authorization of the court is necessary to seize a technological medium or a document stored on such a medium.

2014, c. 1, a. 517.

518. With the authorization of the court, the plaintiff may seize the defendant's property before judgment if there is reason to fear that recovery of the claim might be jeopardized without the seizure.

2014, c. 1, a. 518.

519. In a proceeding for the annulment of a marriage or a civil union, for separation from bed and board or as to property, for divorce or for the dissolution of a civil union, or for payment of a compensatory allowance, each spouse, as of right, may seize before judgment movable property belonging to that spouse whether it is in the hands of the other spouse or a third person. With the authorization of the court, each spouse may also seize property belonging to the other spouse for the share the spouse would be entitled to on the dissolution of the matrimonial or civil union regime; the court determines who is to be the custodian of the property so seized.

2014, c. 1, a. 519.

520. A seizure before judgment is carried out under a notice of execution and according to the seizor's instructions, supported by an affidavit in which the seizor affirms the existence of the claim and the facts justifying the seizure, specifying, if applicable, the source of the information relied on. If the authorization of the court is necessary, it must appear on the seizor's affidavit.

The instructions direct the officiating bailiff to seize all the defendant's movable property or only certain specified movables or immovables. The bailiff serves the notice of execution on the defendant along with the seizor's affidavit.

2014, c. 1, a. 520.

521. If a seizure before judgment is carried out before service of the originating application, the seizor files the originating application with the court office and serves it on the defendant within five days after service of the notice of execution.

2014, c. 1, a. 521.

522. Within five days after service of the notice of execution, the defendant may ask that the seizure be quashed on the grounds that the allegations in the seizor's affidavit are insufficient or false. If this proves to be true, the court quashes the seizure; if not, it confirms the seizure and may revise its scope.

2014, c. 1, a. 522.

523. The defendant may prevent the removal of property, be released from the seizure or recover seized property by giving a sufficient guarantee to the bailiff. If the bailiff refuses the guarantee offered, the defendant may ask the court for a decision.

The deposit of a sum of money, of a guarantee issued by a financial institution carrying on business in Québec or of an insurance policy guaranteeing the performance of the defendant's obligations constitutes a sufficient guarantee. The amount of the guarantee is determined by the amount claimed or the value of the seized property.

2014, c. 1, a. 523.

DIVISION II

SEQUESTRATION

524. The court, even on its own initiative, may order the sequestration of disputed property if it considers it necessary to preserve the parties' rights in the property. When ordering sequestration, the court designates the sequestrator or convenes the parties to appear before it on a specified date to choose the sequestrator.

If an appeal has been initiated, the court of first instance may order sequestration of the property.

2014, c. 1, a. 524.

525. The sequestrator takes an oath before the court clerk and is placed in possession of the property by a bailiff. The bailiff draws up minutes describing the property, which are authenticated by the bailiff and the sequestrator.

2014, c. 1, a. 525.

526. The sequestrator is bound by all the obligations of conventional sequestration, unless the court decides otherwise.

The costs and remuneration of the sequestrator are taxed by the court clerk and are owed solidarily by the parties to the dispute, unless the court decides otherwise.

2014, c. 1, a. 526.

CHAPTER III

AUTHORIZATION, APPROVAL AND HOMOLOGATION

527. An application for authorization, approval or homologation is, when there is a dispute, presented before the court on the date specified in the attached notice of presentation. The presentation date cannot be less than five days after notification of the application.

2014, c. 1, a. 527.

528. Homologation is approval by a court of a juridical act in the nature of a decision or of an agreement. It gives the homologated act the same force and effect as a judgment of the court.

The homologating court only examines the legality of the act; it cannot rule on its advisability or merits unless a specific provision empowers it to do so.

2014, c. 1, a. 528.

CHAPTER IV

JUDICIAL REVIEW

DIVISION I

GENERAL RULES

529. In a judicial review, the Superior Court may, depending on the subject matter,

(1) declare inapplicable, invalid or inoperative a provision of an Act of the Parliament of Québec or the Parliament of Canada, a regulation made under such a law, an order in council, a minister's order or any other rule of law;

(2) evoke, on a party's application, a case pending before a court, or review or quash a judgment rendered by a court or a decision made by a person or body under the authority of the Parliament of Québec, if the court, body or person acted without jurisdiction or in excess of jurisdiction, or if the procedure followed was affected by some serious irregularity;

(3) direct a person holding an office within a public body, a legal person, a partnership or an association or another group not endowed with juridical personality to perform an act which they are by law required to perform, provided the act is not of a purely private nature; or

(4) dismiss a person who, without right, is occupying or exercising a public office or an office within a public body, a legal person, a partnership or an association or another group not endowed with juridical personality.

Except in the case of lack or excess of jurisdiction, judicial review is available only if the judgment or the decision cannot be appealed or contested.

An application for judicial review must be served within a reasonable time after the act or the fact on which it is based.

2014, c. 1, a. 529.

530. An application for judicial review is presented before the Superior Court on the date specified in the attached notice of presentation, which cannot be less than 15 days after service of the application. The judicial review is conducted by preference.

Unless the court decides otherwise, the application does not stay proceedings pending before another court or the execution of the judgment or decision under review. If necessary, the court orders that the exhibits it specifies be sent without delay to the court clerk.

A review judgment that rules in favour of the applicant is served on the parties if it orders that something be done or not be done.

2014, c. 1, a. 530; I.N. 2016-12-01.

531. At any time after a notice of appeal has been filed, an appellate judge may order a stay of any proceeding or of any decision whose execution is not stayed by the appeal.

2014, c. 1, a. 531.

DIVISION II

SPECIAL RULES APPLICABLE TO USURPATION OF OFFICE

532. On removing the defendant from office, the court, on an application, may confer the office on another person if facts proving that person's right to the office are set out in the application for judicial review. The review judgment may award punitive damages against the defendant.

2014, c. 1, a. 532.

533. If the review judgment is based on the grounds that the defendant may have committed an indictable offence, it is effective immediately despite an appeal. Nevertheless, the office is only deemed vacant as of the day on which the judgment becomes final, unless it is vacated at an earlier time for another reason; in the meantime, the defendant is not entitled to the benefits attached to the office.

If the office concerned is a seat on the council of a municipality that is subject to Title I of the Act respecting elections and referendums in municipalities (chapter E-2.2), the effects of provisional execution of the judgment are specified by that Act.

2014, c. 1, a. 533.

534. The person on whom the court confers the office may exercise it after taking the required oath and providing the required suretyship, and may demand that the defendant hand over the property incidental to the office. If the defendant refuses, the court may direct a bailiff to take possession of the property and hand it over to the rightful person.

2014, c. 1, a. 534.

535. The election of a warden in accordance with section 210.29.2 of the Act respecting municipal territorial organization (chapter O-9) or of a mayor or a municipal councillor cannot be contested under this chapter, except for lack of qualification.

2014, c. 1, a. 535.

TITLE I.1

SPECIAL SIMPLIFIED RULES FOR THE RECOVERY OF CERTAIN CLAIMS

2023, c. 3, s. 8.

CHAPTER I

GENERAL PROVISIONS

2023, c. 3, s. 8.

535.1. Applications in which the value of the subject matter of the dispute or the amount claimed, including in lease resiliation matters, is less than $100,000, exclusive of interest, and those ancillary to such an application, including those for the specific performance of a contractual obligation, brought under the rules of Book II before the Court of Québec in the exercise of its jurisdiction under article 35, are also conducted according to the following special rules.

2023, c. 3, s. 8.

CHAPTER II

APPLICATION, DEFENCE AND CASE MANAGEMENT

2023, c. 3, s. 8.

535.2. The preparation of a case protocol is not required.

2023, c. 3, s. 8.

535.3. The statements set out in an originating application shall not exceed five pages in length. The court may, by way of exception and if warranted on serious grounds, authorize the subsequent addition of supplementary pages.

2023, c. 3, s. 8.

535.4. The plaintiff must, within 20 days after service of the summons, complete the application by disclosing to the defendant the exhibits in support of the application and by filing with the court office a notice stating the nature and number of testimonies by affidavit that the plaintiff intends to file as well as the nature and number of pre-trial examinations that the plaintiff intends to conduct and of expert opinions that the plaintiff intends to seek so that the court may authorize them, if applicable.

2023, c. 3, s. 8.

535.5. The preliminary exceptions and incidental applications that a party intends to raise must be disclosed in writing to the other party; the written disclosure must be filed with the court office within 45 days after service of the summons and the other party may make representations in writing within 10 days after the disclosure. The preliminary exceptions and incidental applications are subsequently presented before the court, if applicable.

Any preliminary exceptions and incidental applications that could not be disclosed before the expiry of the time limit are presented before the court as soon as possible.

On the expiry of the time limit for making written representations, an application for dismissal of the proceeding based on a declinatory exception or on an exception to dismiss may be denied on the face of the record and an application for the stay of the proceeding arising from a preliminary exception or an incidental application may be decided on the face of the record.

2023, c. 3, s. 8.

535.6. The defendant must, within 95 days after service of the summons, file with the court office a brief outline of the defendant's arguments and a notice stating the nature and number of testimonies by affidavit that the defendant intends to file as well as the nature and number of pre-trial examinations that the defendant intends to conduct and of expert opinions that the defendant intends to seek so that the court may authorize them, if applicable. The defendant must, within the same time, disclose to the plaintiff the exhibits in support of the defence.

The statements contained in the brief outline of the arguments shall not exceed two pages in length, or seven pages if the defendant makes a cross-application. The court may, by way of exception and if warranted on serious grounds, authorize the subsequent addition of supplementary pages.

2023, c. 3, s. 8.

535.7. The intervenor or the impleaded party must, within 95 days after service of the summons, file with the court office either their declaration of intervention or a brief outline of their arguments, which must obey the same rules as those applying to the originating application or the brief outline, respectively.

However, where the originating application or the declaration of intervention is notified more than 50 days after service of the summons, the intervenor or the impleaded party files the same documents within 45 days.

2023, c. 3, s. 8.

535.8. Not later than 110 days after service of the summons, a case management conference is held if one of the parties is not represented or if the court has to decide the preliminary exceptions or incidental applications that have not already been presented before it or has to authorize the pre-trial examinations that a party intends to conduct, the expert opinions that a party intends to seek or the number of pages of the application, of the defence or of a witness's affidavit.

The conference is held at a distance, unless the court requires that it be held in person; the parties are bound to attend if the court requires them to do so.

2023, c. 3, s. 8.

535.9. A pre-trial written examination shall not exceed three pages in length.

Each of the parties is entitled to only a single oral pre-trial examination where the amount claimed or the value of the property claimed in the judicial application is equal to or greater than $50,000, unless the court decides otherwise.

2023, c. 3, s. 8.

535.10. The origin of evidence filed with the court office or the integrity of the information it contains is presumed to be admitted unless one of the parties objects.

2023, c. 3, s. 8.

535.11. The court may, only by way of exception and if warranted on serious grounds, order a party, including at the case management conference, to provide particulars as to allegations made or to strike immaterial allegations.

2023, c. 3, s. 8.

CHAPTER III

JUDICIAL CONCILIATION, SETTING DOWN AND TRIAL

2023, c. 3, s. 8.

535.12. A settlement conference is held not earlier than 130 days, nor later than 160 days, from service of the summons. If no settlement is reached, the conference is converted into a pre-trial conference.

The settlement conference may, with the parties' consent, be replaced by a pre-trial conference if the parties have already participated in another settlement conference in the course of the proceeding or if the plaintiff has filed with the court office, while completing the application, a certificate issued by a certified mediator, or by a body offering mediation in civil matters, and confirming that the parties resorted to a private dispute prevention and resolution process, or evidence that the parties agreed to a pre-court protocol.

The settlement conference may also be replaced by a pre-trial conference if the court considers that it must be in the circumstances.

At the pre-trial conference, the parties also ready the case for trial.

2023, c. 3, s. 8.

535.13. The court clerk sets the case down for trial and judgment on an order of the court, including at the case management conference or at the pre-trial conference, or not later than six months after service of the summons.

2023, c. 3, s. 8.

535.14. In lieu of the testimony of one of their witnesses on the facts of the dispute, a party may produce an affidavit from the witness, provided the affidavit has been notified to the other parties beforehand. An affidavit shall not exceed five pages in length, but the court may, by way of exception and if warranted on serious grounds, authorize the subsequent addition of supplementary pages.

2023, c. 3, s. 8.

535.15. The parties must seek a joint expert opinion in cases where the amount claimed or the value of the property claimed in the judicial application is less than $50,000, unless the court authorizes that the expert opinion not be joint.

2023, c. 3, s. 8.

TITLE II

RECOVERY OF SMALL CLAIMS

CHAPTER I

GENERAL PROVISIONS

536. An application for recovery of a claim not exceeding $15,000, excluding interest, is instituted under the rules of this Title if the plaintiff is acting in their own name and for their own account or is acting as

administrator of the property of others, tutor or temporary representative or under a protection mandate. The same applies to an application seeking the resolution, resiliation or cancellation of a contract provided neither the value of the contract, nor the amount claimed, if any, exceeds $15,000. The same applies to an application ancillary to such an application and pertaining to the revendication of property.

A legal person, a partnership or an association or another group not endowed with juridical personality cannot act as plaintiff under the rules of this Title unless a maximum of 10 persons bound to it by an employment contract were under its direction or control at any time during the 12-month period preceding the application.

2014, c. 1, a. 536; 2020, c. 11, s. 114; 2023, c. 3, s. 9.

537. This Title does not apply to applications arising from the lease of a dwelling, applications for support or applications alleging defamation.

Nor does it apply to applications brought by a person, a partnership or an association or another group not endowed with juridical personality on the basis of a claim assigned to them in return for payment.

2014, c. 1, a. 537.

538. A plaintiff may voluntarily reduce the amount claimed to $15,000 or less, but cannot divide a claim exceeding that amount into two or more claims not exceeding that amount, under pain of dismissal of the application.

However, a plaintiff is not deemed to have divided a claim if it arises from a credit contract providing for repayment by instalments or from a contract involving the sequential performance of obligations, such as a lease, an employment contract, a disability insurance contract or other similar contract, and if the amount claimed in the application does not exceed $15,000.

2014, c. 1, a. 538.

539. Two or more creditors may join their applications if they have the same juridical basis or raise the same points of law and fact and none of them exceeds $15,000. The court may separate the applications at any time.

2014, c. 1, a. 539.

539.1. The monetary limit for the recovery of small claims provided for in articles 536, 538, 539, 550, 561.1, 565 and 660 is increased by $1,000 on 1 September of the calendar year following the calendar year in which the total amount resulting from annual adjustment of the indexed limit amount on the basis of the Consumer Price Index for Québec, determined by Statistics Canada, since the last increase is equal to or exceeds $1,000. A notice stating the monetary limit for the recovery of small claims resulting from that calculation is published in the *Gazette officielle du Québec* by the Minister of Justice not later than 1 August of the year in which the new limit comes into force. Judicial applications introduced before 1 September of that year continue in accordance with the rules under which they were brought.

2023, c. 3, s. 10.

539.2. Any application in the course of a proceeding must be in writing. The court clerk informs the other party of the application, specifying that they may make representations in writing within 10 days after being so informed. On the expiry of that time, the court clerk submits the application and any representations to the court, which decides the matter on the face of the record, unless the court considers it necessary to hear the parties.

2023, c. 3, s. 10.

540. At any time in the course of the proceeding, the court, even on its own initiative, may take the case management measures it sees fit and, if necessary, convene a case management conference or hear a preliminary application and issue any appropriate order.

If the court considers it necessary in order to assess facts relating to the dispute, it may impose joint expert evidence, specifying the applicable terms; it may also ask a bailiff to ascertain the state or condition of certain premises or things.

If circumstances permit, the court may attempt to reconcile the parties during the hearing or at a settlement conference. If an agreement or a settlement is reached, the judge homologates it. If no settlement is reached after conciliation is held during the hearing, the judge may continue the trial. If no settlement is reached after a settlement conference, the judge may take the appropriate case management measures or, with the parties' consent, convert the conference into a case management conference, but may not subsequently try the case or decide any incidental application.

2014, c. 1, a. 540; 2020, c. 29, s. 40.

541. When the operability, constitutionality or validity of a provision of a law, a regulation, an order in council, a minister's order or any other rule of law is challenged before the court, the court may order that the application be referred to the competent court or tried according to the procedure set out in Title I.1 of this Book.

2014, c. 1, a. 541; 2023, c. 3, s. 11.

CHAPTER II

REPRESENTATION OF PARTIES

542. Natural persons must self-represent; they may, however, give their spouse, a relative, a person connected to them by marriage or civil union or a friend a non-remunerated mandate to represent them. The mandate must be recorded in a document identifying the mandatary and stating the reasons why the mandator is unable to self-represent, and be signed by the mandator.

The State, legal persons, partnerships and associations and other groups not endowed with juridical personality can only be represented by an officer or employee in their sole service who is not a lawyer.

Despite section 34 of the Charter of human rights and freedoms (chapter C-12), lawyers or collection agents cannot act as mandataries except to recover professional fees owed to the partnership to which they belong. By way of exception, if a case raises a complex issue on a point of law, the court, on its own initiative or on a party's request, after obtaining the consent of the chief judge of the Court of Québec, may authorize the parties to be represented by lawyers. In such a case, except for parties who do not qualify as plaintiffs under this Title, the lawyers' professional fees and costs are borne by the Minister of Justice but cannot exceed those set in the tariff of fees established by the Government under the Act respecting legal aid and the provision of certain other legal services (chapter A-14).

Both natural persons and legal persons may consult a lawyer, including for the purpose of preparing the presentation of their case.

2014, c. 1, a. 542.

CHAPTER III

PROCEDURE

DIVISION I

INSTITUTION OF APPLICATION, AND DEFENCE

543. The parties may inquire with the court office for information on the conduct of the proceeding and the execution of the judgment and, more specifically, on key procedural steps and the rules governing the venue for the application, the disclosure of exhibits, the production of evidence and the legal costs. If necessary, the court clerk assists the parties in preparing pleadings or completing the forms placed at their disposal, but cannot give them legal advice.

2014, c. 1, a. 543.

544. The application must set out the facts on which it is based, the nature of the claim, the amount of the claim and interest and the conclusions sought, and include a list of the exhibits in support of the application. It must be supported by a statement by the plaintiff, which is deemed to be an affidavit, attesting that the facts alleged are true and that the amount claimed is due. The application must also state the plaintiff's name and domicile or residence and, if applicable, those of the plaintiff's mandatary, as well as the defendant's name and domicile or last known place of residence. In addition, the application must specify whether the plaintiff might consider mediation.

If the plaintiff is a legal person, a partnership or an association or another group not endowed with juridical personality, the plaintiff's statement must attest that a maximum of 10 persons bound to it by an employment contract were under its direction or control at any time during the 12-month period preceding the application.

The application may be filed with the office of the court nearest to the plaintiff's domicile, residence or establishment. If applicable, the court clerk forwards it to the office of the court having territorial jurisdiction designated by the plaintiff.

2014, c. 1, a. 544.

545. The application is presented to the court clerk, who determines whether it is admissible. If the application is admissible, the court record is opened. If the application is not admissible, the court clerk notifies a notice so informing the plaintiff and specifying that the latter may, within 15 days after the notification, ask for a review of the decision by the court, which decides the matter on the face of the record.

If admissible, the application is filed with the court office and the exhibits or copies of the exhibits must be filed within 10 days after the application is filed. If originals of the exhibits are not filed within that time limit, they may be produced on the day of the trial.

2014, c. 1, a. 545; 2020, c. 29, s. 41.

546. The court clerk notifies the application to the defendant together with a notice setting out the options available to the defendant, and the list of exhibits.

The notice must be in keeping with the model established by the Minister of Justice; it states that if the defendant fails to indicate the option chosen to the court clerk within 20 days after the notification, judgment may be rendered against the defendant without further notice or extension.

2014, c. 1, a. 546.

547. The options available to the defendant are the following:

(1) to pay the amount claimed and the costs borne by the plaintiff to the court office or pay them directly to the plaintiff and send the proof of payment or acquittance obtained from the plaintiff to the court office, or to reach a settlement with the plaintiff and send a document recording the settlement agreement to the court office; or

(2) to defend on the merits and so inform the court office, specifying the grounds of defence, which may include prescription.

In addition, a defendant who chooses to defend the application may

(1) ask that the dispute be referred to mediation;

(2) ask that the application be dismissed, that the case be referred to another judicial district or to another court or to the competent administrative tribunal, or that the case be tried by the same court but under the rules of Title I.1 of this Book, specifying the reasons for the request;

(3) ask that a third person be forced to intervene as a co-defendant or an impleaded party, in order to assert a recourse in warranty against that person or allow full resolution of the dispute, in which case the defendant informs the court clerk of the person's name and last known address;

(4) assert the defendant's own claim against the plaintiff, provided it arises from the same source as the application or from a related source and the amount claimed would make it admissible under this Title, or ask for the resolution, resiliation or annulment of the contract on which the application is founded; or

(5) make a tender and deposit the amount tendered with the court office or with a trust company authorized under the Trust Companies and Savings Companies Act (chapter S-29.02).

2014, c. 1, a. 547; I.N. 2016-12-01; 2018, c. 23, s. 737; 2023, c. 3, s. 12.

548. If the defendant has paid the plaintiff, the court clerk closes the record; if the parties have reached a settlement and one of the parties so requests, the court clerk homologates the settlement agreement as a judgment.

If the defendant has asked for a referral of the case, the court clerk so informs the plaintiff, specifying that the plaintiff has 10 days after being so informed to make representations in writing. On the expiry of that time, the court clerk submits the request and any representations to the court, which decides the matter on the face of the record. If the court considers the request to be well-founded, the court clerk sends the record to the office of the court having jurisdiction.

If the defendant has made a tender, the court clerk so informs the plaintiff.

2014, c. 1, a. 548.

549. If the defendant chooses to defend on the merits, the defendant specifies the grounds of defence and files the exhibits or copies of the exhibits in support of the contentions of the defence with the court office within 10 days after the defence. If originals of the exhibits are not filed within that time limit, they may be produced on the day of the trial.

The court clerk notifies the defence to the plaintiff along with a list of the exhibits filed. If no grounds of defence are provided, the court clerk directs the defendant to make such grounds known within 10 days, specifying that failure to do so will result in the defendant being considered in default for failure to defend.

2014, c. 1, a. 549; 2020, c. 29, s. 42.

550. The defendant, regardless of the number of employees in the defendant's employ, may assert against the plaintiff the defendant's own claim arising from the same source as the application or from a related source, provided the amount claimed does not exceed $15,000, or request the resolution, resiliation or

annulment of the contract on which the application is founded. The defendant files the exhibits in support of the contentions of the defence with the court office within 10 days after filing the application. If the defendant's own claim is not admissible as a small claim, the court clerk notifies a notice so informing the defendant and specifying that the defendant may, within 15 days after the notification, ask for a review of the decision by the court, which decides the matter on the face of the record.

2014, c. 1, a. 550; 2020, c. 29, s. 43.

551. If the defendant is requiring the intervention of a third person, the defendant explains the grounds for the intervention to the court clerk and files the exhibits in support of the related contentions with the court office within 10 days of the application for intervention. The court clerk informs the plaintiff and notifies the application and the defence to the intervenor, specifying that the intervenor's attendance is required on the defendant's request. The court clerk also informs the intervenor, as if the latter were a defendant, of the options available and the applicable time limits.

2014, c. 1, a. 551; 2020, c. 29, s. 44.

552. If the defendant is in default for failure to defend, the special clerk renders judgment on the face of the application and the exhibits filed in the record or, if the special clerk considers it necessary, after hearing the plaintiff's evidence.

2014, c. 1, a. 552.

553. A defendant being sued under Book II may request that the case be heard under this Title provided the defendant would qualify to act as plaintiff under this Title. The same request may be made when the application is based on a claim assigned to a third person in return for payment provided the defendant would qualify to act as plaintiff under this Title.

The request is presented to the clerk of the court seized of the matter, at any time before the case is set down for trial and judgment. If the request is found to be admissible, the court clerk notifies the decision to the plaintiff and the latter may, within 15 days after the notification, ask for a review of the decision by the court seized of the application. In the absence of a review, the court clerk transfers the record so that the case may be continued under this Title.

2014, c. 1, a. 553.

DIVISION II

NOTICE OF HEARING AND CALLING OF WITNESSES

554. Once the case is ready, at least six weeks but not more than three months before the scheduled hearing date, the court clerk notifies a notice of the hearing to the plaintiff and to the other parties that have filed a defence.

The notice of hearing mentions that a party may, on request, examine the exhibits and the documents filed with the court office by the other parties and obtain copies of them. It also informs the parties that any other document not yet filed must be filed at least 30 days before the scheduled hearing date, and that any person mandated to represent the plaintiff must file the mandate with the court office.

The notice of hearing reminds the parties that they must bring their witnesses to the hearing, but that a witness's testifying at court may be replaced by an affidavit. It also informs the parties that they must, at least 30 days before the scheduled hearing date, give the court clerk the names of any witnesses they wish to have called, specifying the reason they are called as witnesses and the subject matter of their testimony, and file the affidavits of any witnesses who will not be attending at court. As well, it warns the parties that, if the judge considers that a witness was needlessly called and required to attend at court, they may be ordered to pay the related legal costs.

The court clerk notifies a subpoena to the witnesses named by the parties and informs them that they will not be compensated, unless the court decides otherwise. If the number of witnesses appears to be needlessly high, the court clerk may request instructions from the court.

2014, c. 1, a. 554; 2020, c. 29, s. 45.

555. If, at least 30 days before the scheduled hearing date, a party files with the court office a person's affidavit as factual testimony or as testimony in lieu of an expert report, the court clerk notifies the affidavit to the other party. If it considers it necessary, the other party may request, at least 15 days before that date, the court clerk to call the affiant to attend at court.

2014, c. 1, a. 555; 2020, c. 29, s. 46.

DIVISION III

MEDIATION AND ARBITRATION

2014, c. 1, Div. III; 2023, c. 3, s. 13.

556. The parties must favour mediation and arbitration to settle their dispute.

To that end, the court clerk informs them at the earliest opportunity that they may, at no additional cost, submit their dispute to a certified mediator. However, in the districts determined by the Minister and according to the terms and conditions prescribed by the Government in accordance with article 570, the court clerk submits the dispute to such mediation before the matter can be heard by the court. The mediator files a report with the court office on the mediation conducted.

If the parties reach a settlement, they file with the court office either a notice that the case has been settled or the signed settlement agreement. A settlement agreement confirmed by the special clerk or the court is equivalent to a judgment.

If the parties do not reach a settlement, the court clerk, in the districts determined by the Minister and according to the terms and conditions prescribed by the Government in accordance with article 570, offers them arbitration, at no additional cost, by a certified arbitrator.

The arbitration award is public. The arbitrator sends it to the parties and files it with the court office.

2014, c. 1, a. 556; 2023, c. 3, s. 14; 2024, c. 7, s. 10.

DIVISION IV

HEARING

557. In all cases where a hearing is necessary, the court clerk, to the extent possible, sets a date and time for the hearing that will allow the parties and their witnesses to attend. The court may hold the hearing elsewhere than where the application was filed.

The court clerk may postpone a case on a party's request if it is the first request of the kind and it is made at least one month before the scheduled hearing date. The court clerk informs the other party without delay of the request and hears the other party's representations. If the request is granted, the court clerk rules on the costs incurred by the latter party; the decision on costs may be revised by the court at the hearing on the merits. Any further request for a postponement must be submitted to the court for a decision.

2014, c. 1, a. 557.

558. If the Superior Court or the Court of Québec is seized, pursuant to Book II, of an application that has the same juridical basis or raises the same issues of law as an application that is before the court under this Title, the court may stay the hearing on a party's request, provided this cannot result in serious prejudice to the other party.

The stay is maintained until the judgment on the other application has become final, although the court may revise its stay decision if warranted by new circumstances.

2014, c. 1, a. 558.

559. If, at the time set for the hearing, a party or the parties are absent, the court may either postpone the hearing or render a judgment on the basis of the evidence offered.

2014, c. 1, a. 559.

560. At the hearing, the court instructs the parties summarily as to the applicable rules of evidence and the procedure it considers appropriate. At the invitation of the court, the parties state their contentions and produce their witnesses. The court itself examines the parties and the witnesses, and provides fair and impartial assistance to each of them so as to bring out the substantive law and ensure that it is carried out. The court may, on its own initiative, raise the exception resulting from prescription by allowing the parties to respond to it.

The defendant or an intervenor may raise any grounds of defence and, if appropriate, propose terms of payment.

The court may accept an expert's oral testimony in lieu of an expert report; it may also accept the filing of any document, even though the prescribed filing time has expired.

At the end of the hearing, the court identifies the witnesses to whom indemnities are payable under the tariffs in force.

2014, c. 1, a. 560; I.N. 2016-12-01; 2020, c. 29, s. 47.

561. If, after conciliation, the parties reach a settlement, the court clerk draws up minutes in which the settlement agreement is recorded. Once signed by the parties and homologated by the court, the settlement agreement is equivalent to a judgment.

2014, c. 1, a. 561.

DIVISION V

JUDGMENT

561.1. At any stage of a proceeding pertaining to the recovery of a claim not exceeding 15,000, the court may, with the parties' consent, render judgment on the face of the record.

2023, c. 3, s. 15.

562. As soon as the judgment is signed, the court clerk notifies a copy to each party, together with a notice to the debtor stating that since the judgment has been rendered against that person, failure to settle the outstanding claim within the time limits prescribed by this Code could result in the person's assets, including income and investments, being seized and, if necessary, sold under judicial authority.

The court clerk may issue a certified true copy of the judgment on request.

2014, c. 1, a. 562.

563. The judgment has the authority of res judicata only with respect to the parties to the dispute and for the amount claimed. It cannot be cited in an application between the same parties for the same cause before a different court. Any application or proof based on the judgment must be dismissed by the court on its own initiative or on a party's request.

2014, c. 1, a. 563.

564. The judgment cannot be appealed.

A judgment or proceeding relating to a small claim is not open to judicial review except on the grounds of lack or excess of jurisdiction.

2014, c. 1, a. 564.

565. The court may order a different time limit for the execution of a judgment than those prescribed by Book VIII and, for instance, authorize earlier execution of the judgment if the creditor establishes, in an affidavit, a fact that justifies a seizure before judgment.

The court may also authorize the debtor to execute the judgment by means of instalments to be paid to the creditor in accordance with terms specified by the court. The debtor loses the benefit of the term on defaulting on an instalment and failing to remedy the default within 10 days.

If the value of the property that is subject to execution proceedings exceeds $15,000, the court may order that the matter be transferred to the court that is competent to deal with claims in that amount, for continuation of the execution procedings.

2014, c. 1, a. 565.

566. The judgment creditor may themselves draw up the notice of execution if the only execution measure is seizure of the debtor's income in the hands of a third person. The notice is signed and filed in the court office by the court clerk then notified by the creditor to the debtor and the garnishee. It directs the garnishee to notify a declaration to the creditor and the court clerk and remit to the latter the seizable portion of what the garnishee owes to the debtor. The creditor notifies the declaration to the debtor.

The ensuing administration of the seizable portion of the debtor's income, including its receipt and distribution, is entrusted to the court clerk.

If incidental applications are filed in relation to execution of the judgment, the court clerk informs without delay the parties and, if applicable, the bailiff, and calls the parties to a hearing on a specified date.

The court clerk may assist the creditor in the execution of the judgment.

2014, c. 1, a. 566.

567. The judgment execution costs that may be claimed from the debtor are set out in the tariffs applicable under this Title.

2014, c. 1, a. 567.

568. An application for revocation of the judgment must include an affidavit setting out the grounds on which the application is based and the revocation is sought, and be filed with the court office within 30 days after the party becomes aware of the judgment, but not more than six months after the date of the judgment, these being strict time limits. If, on the face of the record, the grounds appear sufficient, the court may stay forced execution of the judgment; the court clerk then summons the parties so that they may be heard on the application for revocation and, if applicable, on the merits of the dispute.

2014, c. 1, a. 568.

CHAPTER IV

MISCELLANEOUS PROVISIONS

569. Pleadings cannot be accepted by the court clerk unless the filing fee prescribed under the applicable tariff of judicial fees is paid. However, a person who provides proof of being a recipient under a social assistance or social solidarity program established under the Individual and Family Assistance Act (chapter A-13.1.1) is exempted from paying the filing fee.

If a pleading is refused, the amount paid to the court office is refunded.

2014, c. 1, a. 569.

570. The Government, by regulation, may establish

(1) a tariff of court costs and fees for the filing or presentation of applications and pleadings under this Title and for the execution of judgments, as well as a tariff of professional fees payable to bailiffs by debtors;

(1.1) rules specifying, notwithstanding the principles of Title I of Book I and of Book VII, the cases where mediation is mandatory and where arbitration is offered to the parties as well as the other terms and conditions applicable to mediation or arbitration including, in the latter case, those relating to the parties' consent to resort to it;

(1.2) which bodies, persons or associations may certify mediators or arbitrators, the conditions with which they must comply in order to do so, as well as the conditions mediators or arbitrators must satisfy to be certified;

(2) a tariff of professional fees payable to certified mediators or arbitrators, and the maximum number of sessions for which a mediator or an arbitrator may be paid fees in relation to the same application; and

(3) special rules and obligations with which certified mediators or arbitrators must comply in the exercise of their functions, as well as the sanctions applicable for non-compliance.

Mediation cannot be mandatory where one of the parties files with the court office a certificate confirming that they have gone to an assistance organization for persons who are victims that is recognized by the Minister of Justice for help as a person who is a victim of domestic or sexual violence on the part of the other party. That certificate is confidential.

The Minister of Justice determines, by order published in the *Gazette officielle du Québec*, the districts in which mediation is mandatory and those in which arbitration is offered to the parties.

2014, c. 1, a. 570; 2023, c. 3, s. 16; 2024, c. 7, s. 11.

TITLE III

SPECIAL RULES FOR CLASS ACTIONS

CHAPTER I

INTRODUCTORY PROVISIONS

571. A class action is a procedural means enabling a person who is a member of a class of persons to sue, without a mandate, on behalf of all the members of the class and to represent the class.

In addition to natural persons, legal persons established for a private interest, partnerships and associations or other groups not endowed with juridical personality may be members of the class.

A legal person established for a private interest, a partnership or an association or another group not endowed with juridical personality may, even without being a member of a class, ask to represent the class if the director, partner or member designated by that entity is a member of the class on behalf of which the entity is seeking to institute a class action, and the designee's interest is related to the purposes for which the entity was constituted.

2014, c. 1, a. 571.

572. As soon as an application for authorization to institute a class action is filed, the chief justice, unless the chief justice decides otherwise, assigns a judge as special case management judge to manage the proceeding and hear all procedural matters relating to the class action. The chief justice may assign a judge despite there being grounds for the judge's recusation, provided the chief justice considers the situation, in the context of the case, does not undermine the impartiality of the judiciary.

After considering the interests of the parties and of the class members, the chief justice may determine the district in which the application for authorization is to be heard or the class action instituted.

2014, c. 1, a. 572.

573. A central registry of class actions is kept at the Superior Court under the authority of the chief justice. Applications for authorization and originating applications, pleadings filed in the course of a proceeding and notices to class members, as well as any other documents specified in the chief justice's instructions, are registered in the registry.

2014, c. 1, a. 573.

CHAPTER II

AUTHORIZATION TO INSTITUTE CLASS ACTION

574. Prior authorization of the court is required for a person to institute a class action.

The application for authorization must state the facts on which it is based and the nature of the class action, and describe the class on whose behalf the person intends to act. It must be served on the person against whom the person intends to institute the class action, with at least 30 days' notice of the presentation date.

An application for authorization may only be contested orally, and the court may allow relevant evidence to be submitted.

2014, c. 1, a. 574.

575. The court authorizes the class action and appoints the class member it designates as representative plaintiff if it is of the opinion that

(1) the claims of the members of the class raise identical, similar or related issues of law or fact;

(2) the facts alleged appear to justify the conclusions sought;

(3) the composition of the class makes it difficult or impracticable to apply the rules for mandates to take part in judicial proceedings on behalf of others or for consolidation of proceedings; and

(4) the class member appointed as representative plaintiff is in a position to properly represent the class members.

2014, c. 1, a. 575.

576. The judgment authorizing a class action describes the class whose members will be bound by the class action judgment, appoints the representative plaintiff and identifies the main issues to be dealt with

collectively and the conclusions sought in relation to those issues. It describes any subclasses created and determines the district in which the class action is to be instituted.

The judgment orders the publication of a notice to class members; it may also order the representative plaintiff or a party to make information on the class action available to the class members, including by setting up a website.

The judgment also determines the time limit for opting out of the class. The opting-out period cannot be shorter than 30 days or longer than six months after the date of the notice to class members. The time limit for opting out is a strict time limit, although a class member, with leave of the court, may opt out after its expiry on proving that it was impossible in fact for the class member to act sooner.

2014, c. 1, a. 576.

577. The court cannot refuse to authorize a class action on the sole ground that the class members are part of a multi-jurisdictional class action already under way outside Québec.

If asked to decline jurisdiction, to stay an application for authorization to institute a class action or to stay a class action, the court is required to have regard for the protection of the rights and interests of Québec residents.

If a multi-jurisdictional class action has been instituted outside Québec, the court, in order to protect the rights and interests of class members resident in Québec, may disallow the discontinuance of an application for authorization, or authorize another plaintiff or representative plaintiff to institute a class action involving the same subject matter and the same class if it is convinced that the class members' interests would thus be better served.

2014, c. 1, a. 577; I.N. 2016-12-01.

578. A judgment authorizing a class action may be appealed only with leave of a judge of the Court of Appeal. A judgment denying authorization may be appealed as of right by the applicant or, with leave of a judge of the Court of Appeal, by a member of the class on whose behalf the application for authorization was filed.

The appeal is heard and decided by preference.

2014, c. 1, a. 578.

CHAPTER III

NOTICES

579. When a class action is authorized, a notice is published or notified to the class members

(1) describing the class and any subclass;

(2) setting out the principal issues to be dealt with collectively and the conclusions sought in relation to those issues;

(3) stating the representative plaintiff's name, the contact information of the representative plaintiff's lawyer and the district in which the class action is to proceed;

(4) stating that class members have the right to seek intervenor status in the class action;

(5) stating that class members have the right to opt out of the class and specifying the procedure and time limit for doing so;

(6) stating that no class member other than the representative plaintiff or an intervenor may be required to pay legal costs arising from the class action; and

(7) providing any additional information the court considers useful, including the address of the website for the central registry of class actions.

The court determines the date, form and method of publication of the notice, having regard to the nature of the class action, the composition of the class and the geographical location of its members. The notice identifies, by name or a description, any class members who are to receive individual notification. If the court sees fit, it may authorize the publication of an abbreviated notice.

2014, c. 1, a. 579.

580. A class member who wishes to opt out of the class or a subclass is required to so inform the court clerk before the time limit for doing so has expired. A person who has opted out is not bound by any judgment on the representative plaintiff's application.

A class member who does not discontinue an originating application having the same subject matter as the class action before the time for opting out has expired is deemed to have opted out.

2014, c. 1, a. 580.

581. At any stage of a class action, the court may order a notice to be published or notified to the class members if it considers it necessary for the protection of their rights. The notice, which must describe the class and include the parties' names, their lawyers' contact information and the representative plaintiff's name, must be clear and concise.

2014, c. 1, a. 581.

582. In cases where the sending of a notice of claim is required by the Cities and Towns Act (chapter C-19), the Municipal Code of Québec (chapter C-27.1) or a municipal charter as a prior condition to the institution of an action, a notice of claim given by one class member is valid for all class members, and insufficiency of the notice cannot be urged against the representative plaintiff.

2014, c. 1, a. 582.

CHAPTER IV

CONDUCT OF CLASS ACTION

583. The originating application in a class action must be filed with the court office not later than three months after the class action is authorized, under pain of the authorization being declared lapsed.

If an application for a declaration of lapse is filed, notice of the application, using the method of publication determined by the court, must be given to the class members at least 15 days before the date on which the application is to be presented. The representative plaintiff, or another class member asking to be substituted as representative plaintiff, may prevent the authorization from being declared lapsed by filing an originating application with the court office.

2014, c. 1, a. 583.

584. The defendant cannot urge a preliminary exception against the representative plaintiff unless it concerns a substantial number of the class members and pertains to an issue to be dealt with collectively. Nor may the defendant request a splitting of the proceeding or institute a cross-application.

2014, c. 1, a. 584.

585. The representative plaintiff must have the authorization of the court to amend a pleading, to discontinue the application, to withdraw a pleading or to renounce rights arising from a judgment. The court may impose any conditions it considers necessary to protect the rights of the class members.

An admission by the representative plaintiff is binding on the class members unless the court considers that the admission causes them prejudice.

2014, c. 1, a. 585.

586. A class member cannot intervene voluntarily for the plaintiffs except to assist the representative plaintiff or to support the representative plaintiff's application or contentions. The court authorizes an intervention if it is of the opinion that the intervention will be helpful to the class. The court may limit an intervenor's right to file a pleading or participate in the trial.

2014, c. 1, a. 586.

587. A party cannot subject a class member other than the representative plaintiff or an intervenor to a pre-trial examination or to a medical examination, nor may a party examine a witness outside the presence of the court. The court may make exceptions to these rules if it considers that doing so would be useful for its determination of the issues of law or fact to be dealt with collectively.

2014, c. 1, a. 587.

588. The court may at any time, on the application of a party, revise or annul the authorization judgment if it considers that conditions relating to the issues of law or fact or to the composition of the class are no longer satisfied.

If the court revises the authorization judgment, it may allow the representative plaintiff to amend the conclusions sought. In addition, if circumstances so require, the court may, even on its own initiative, modify or divide the class at any time.

If the court annuls the authorization judgment, the proceeding continues between the parties before the competent court according to the procedure set out in Book II.

2014, c. 1, a. 588.

589. The representative plaintiff is deemed to retain sufficient interest to act even if that person's personal claim is extinguished. The representative plaintiff cannot waive the status of representative plaintiff without the authorization of the court, which cannot be given unless the court is able to appoint another class member as representative plaintiff.

If the representative plaintiff is no longer in a position to properly represent the class members or if that person's personal claim is extinguished, another class member may ask the court to be substituted as representative plaintiff or propose some other class member for that purpose.

A substitute representative plaintiff continues the proceeding from the stage it has reached; with the authorization of the court, the substitute may refuse to confirm any prior acts if they have caused irreparable prejudice to the class members. The substitute is not liable for legal costs and other expenses in relation to any act prior to the substitution that the substitute has not confirmed, unless the court orders otherwise.

2014, c. 1, a. 589.

590. A transaction, acceptance of a tender, or an acquiescence is valid only if approved by the court. Such approval cannot be given unless notice has been given to the class members.

In the case of a transaction, the notice must state that the transaction will be submitted to the court for approval on the date and at the place indicated. It must specify the nature of the transaction, the method of

execution chosen and the procedure to be followed by class members to prove their claim. The notice must also inform class members that they may assert their contentions before the court regarding the proposed transaction and the distribution of any remaining balance. The judgment approving the transaction determines, if necessary, the mechanics of its execution.

2014, c. 1, a. 590.

CHAPTER V

JUDGMENT AND EXECUTION MEASURES

DIVISION I

JUDGMENT, AND ITS EFFECTS AND PUBLICATION

591. The judgment on a class action describes the class to which it applies, and is binding on all class members who have not opted out.

Once the judgment has become final, the court of first instance orders the publication of a notice stating the substance of the judgment and notification of the notice to each known class member.

2014, c. 1, a. 591.

592. If the judgment awards damages or a monetary reimbursement, it specifies whether members' claims are to be recovered collectively or individually.

2014, c. 1, a. 592.

593. The court may award the representative plaintiff an indemnity for disbursements and an amount to cover legal costs and the lawyer's professional fee. Both are payable out of the amount recovered collectively or before payment of individual claims.

In the interests of the class members, the court assesses whether the fee charged by the representative plaintiff's lawyer is reasonable; if the fee is not reasonable, the court may determine it.

Regardless of whether the Class Action Assistance Fund provided assistance to the representative plaintiff, the court hears the Fund before ruling on the legal costs and the fee. The court considers whether or not the Fund guaranteed payment of all or any portion of the legal costs or the fee.

2014, c. 1, a. 593.

594. When an application for the homologation of a transaction or the recognition of a judgment in a foreign class action is made to the court, the court makes sure that the rules of the Civil Code that apply to the recognition and enforcement of foreign decisions have been complied with and that the notices given in Québec in connection with the class action were sufficient.

As well, the court is required to make sure that the requirements that governed the exercise of the rights of Québec residents are equivalent to those imposed in class actions brought before a Québec court, that Québec residents may exercise their rights in Québec in accordance with the rules applicable in Québec and that, in the case of collective recovery of claims, the remittance of any remaining balance to a third person will be decided by it insofar as the Québec residents' share is concerned.

2014, c. 1, a. 594.

DIVISION II

COLLECTIVE RECOVERY OF CLAIMS

595. The court orders collective recovery of the class members' claims if the evidence allows a sufficiently precise determination of the total claim amount. The total claim amount is determined without regard to the identity of individual class members or the exact amount of their respective claims.

After determining the total claim amount, the court may order that it be deposited in its entirety, or according to the terms it specifies, with a financial institution carrying on business in Québec; the interest on the amount deposited accrues to the class members. The court may reduce the total claim amount if it orders an additional form of reparation, or may order reparation appropriate to the circumstances instead of a monetary award.

If execution measures prove necessary, instructions are given to the bailiff by the representative plaintiff.

2014, c. 1, a. 595.

596. A judgment that orders collective recovery makes provision for individual liquidation of the class members' claims or for distribution of an amount to each class member.

The court designates a person to carry out the operation, gives them the necessary instructions, including instructions as to proof and procedure, and determines their remuneration.

The court disposes of any remaining balance in the same manner as when remitting an amount to a third person, having regard, among other things, to the members' interests. If the judgment is against the State, the remaining balance is paid into the Access to Justice Fund.

2014, c. 1, a. 596.

597. If the individual liquidation of the class members' claims or the distribution of an amount to each class member is impracticable, inappropriate or too costly, the court determines the balance remaining after the collocation of the costs, fee and disbursements and orders that the amount be remitted to a third person it designates.

However, before remitting the amount to a third person, the court hears the representations of the parties, the Class Action Assistance Fund and any other person whose opinion the court considers useful.

2014, c. 1, a. 597.

598. The liquidation, distribution or remittance of the amount recovered collectively is effected after payment, in the following order, of

(1) the legal costs, including the cost of notices and the remuneration of the person designated to carry out the liquidation or distribution;

(2) the fee of the representative plaintiff's lawyer, to the extent determined by the court; and

(3) the representative plaintiff's disbursements, to the extent determined by the court.

2014, c. 1, a. 598.

DIVISION III

INDIVIDUAL RECOVERY OF CLAIMS

599. A judgment ordering individual recovery specifies what issues remain to be decided in order to determine individual claims. It sets out the content of the judgment notice to class members, which must include explanations as to those issues and as to the information and documents to be provided in support of an individual claim and any other information determined by the court.

Within one year after the publication of the notice, class members must file their claim with the office of the court in the district where the class action was heard or in any other district the court specifies.

2014, c. 1, a. 599.

600. The court determines the claim of each class member or orders the special clerk to determine it according to the procedure it establishes. The court may determine special methods of proof and procedure for such purpose.

2014, c. 1, a. 600.

601. At the trial of an individual claim, the defendant may urge against a claimant a preliminary exception that this Title did not earlier permit against the representative plaintiff.

2014, c. 1, a. 601.

DIVISION IV

APPEAL

602. The judgment on a class action may be appealed as of right.

If the representative plaintiff does not initiate an appeal or if the appeal is dismissed on the grounds that it was not properly initiated, a class member may, within two months after the publication or notification of the judgment notice, apply to the Court of Appeal for permission to be substituted as representative plaintiff in order to appeal the judgment.

The time limit in this article is a strict time limit.

2014, c. 1, a. 602.

603. The appellant asks the court of first instance to determine the content of the notice to be given to class members.

2014, c. 1, a. 603.

604. If the Court of Appeal grants the representative plaintiff's appeal, even in part, it may order that the record be sent to the court of first instance for collective recovery of claims or for determination of individual claims.

2014, c. 1, a. 604.

BOOK VII

PRIVATE DISPUTE PREVENTION AND RESOLUTION PROCESSES

TITLE I

MEDIATION

CHAPTER I

ROLES AND DUTIES OF PARTIES AND MEDIATOR

605. A mediator is chosen, directly or through a third person, by mutual agreement of the parties.

The mediator helps the parties to engage in dialogue, clarify their views, define the issues in dispute, identify their needs and interests, explore solutions and reach, if possible, a mutually satisfactory agreement. The parties may ask the mediator to develop with them a proposal to prevent or resolve the dispute.

The mediator is required to draw the parties' attention to any conflict of interest or any situation that may be seen to create a conflict of interest or that may cast doubt on the mediator's impartiality.

2014, c. 1, a. 605.

606. The mediator and mediation participants cannot be compelled, in arbitration, administrative or judicial proceedings, whether related or unrelated to the dispute, to disclose anything they hear or learn in the course of the mediation process. Nor can the mediator and mediation participants be compelled to produce a document prepared or obtained in the course of the mediation process, unless the law requires its disclosure, a person's life, safety or personal integrity is at stake or its disclosure is necessary for the mediator to be able to defend against a claim of professional fault. No information given or statement made in the course of the mediation process may be admitted in evidence in such proceedings.

To claim the privilege of non-compellability, the mediator must be certified by a body recognized by the Minister of Justice. In addition, the mediator must be subject to rules of professional conduct and be required to take out civil liability insurance or provide some other form of security to cover injury to third persons.

2014, c. 1, a. 606; I.N. 2016-12-01.

607. Despite section 9 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), no one has a right of access to a document contained in the mediation record, or the right to object to the use of a document in the course of a mediation process on the grounds that it may contain personal information.

2014, c. 1, a. 607.

607.1. A court seized of a dispute on an issue on which the parties have entered into a mediation agreement may, on a party's application, refer the parties back to mediation, unless the court finds the agreement to be null. The application for referral to mediation must be made within 45 days after service of the originating application.

If mediation fails, the evidence exchanged between the parties may be filed in the court record by mutual agreement.

2023, c. 3, s. 17.

CHAPTER II

CONDUCT OF MEDIATION

608. Mediation begins, without formality, on the day on which the parties agree to enter into a mediation process by mutual agreement or at the initiative of one of them. In the latter case, failure by the other party to respond constitutes a refusal to participate in the mediation process.

2014, c. 1, a. 608.

609. Before starting the mediation process, the mediator informs the parties of a mediator's role and duties, and determines with them the rules applicable to and the length of the mediation process.

The parties must undertake to attend all meetings to which they are invited by the mediator. They may, if all consent, even tacitly, bring persons whose contribution may be useful for the orderly progress of the mediation process and helpful in resolving the dispute. The parties are required to ensure that the persons who have the authority to make a settlement agreement are present or that they can be reached in sufficient time to give their consent.

2014, c. 1, a. 609.

610. The mediator has a duty to treat the parties fairly, and must see that each party has an opportunity to argue its case.

The mediator may suspend the mediation process at any time, in the interests of the parties or of one of the parties.

2014, c. 1, a. 610.

611. The mediator may communicate with each party separately, but in that case is required to inform the parties.

No information relevant to the mediation received from a party may be disclosed by the mediator, without that party's consent, to the other party.

2014, c. 1, a. 611.

612. If the parties enter into mediation while a judicial application is already in progress, they must agree to a stay of the proceeding, provided the law or the court seized permits it, until the end of the mediation process.

2014, c. 1, a. 612.

CHAPTER III

END OF MEDIATION

613. A settlement agreement contains the undertakings of the parties and terminates the dispute. The settlement agreement constitutes a transaction only if the subject matter and the circumstances permit and the parties' wishes in that respect are clear.

The mediator must see that the parties understand the agreement.

2014, c. 1, a. 613.

614. A party may withdraw from or put an end to the mediation process at any time at its own discretion and without being required to give reasons.

The mediator, too, may put an end to the mediation process if, in the mediator's opinion, it is warranted by the circumstances, in particular if the mediator is convinced that the mediation process is doomed to failure or is likely, if continued, to cause serious prejudice to one of the parties.

2014, c. 1, a. 614.

615. As soon as the mediation process ends, the mediator renders an account to the parties of the sums received and determines the costs, which are borne equally by the parties, unless a different apportionment has been agreed, or has been ordered by the court if the mediation process took place in the course of a proceeding.

The costs include the mediator's fee, travel expenses and other disbursements, as well as any costs related to expert evidence or other interventions agreed by the parties. All other expenses incurred by a party are borne by that party.

2014, c. 1, a. 615.

CHAPTER IV

SPECIAL PROVISIONS APPLICABLE TO FAMILY MEDIATION

616. Mediation of a family dispute that is entered into on a purely private basis or without a judicial application being brought may only be conducted by a family mediator certified in accordance with the regulations under article 619. If a child's interests are at stake, the mediator is required to inform the parties that they must participate in a parenting and mediation information session as provided in article 417.

2014, c. 1, a. 616.

617. Mediation sessions take place in the presence of both parties and a mediator or, if the parties so agree, two mediators. The sessions may also, if all agree, take place in the presence of a single party, in the presence of the child concerned or in the presence of other persons who are neither experts nor advisers if their contribution may be helpful in resolving the dispute.

If required by the circumstances, the mediator may, with the parties' consent, use any appropriate, readily available technological means.

When the mediation process ends, the mediator files a dated and signed report with the Family Mediation Service, and delivers a copy to the parties. The report records the presence of the parties and the points, if any, on which an agreement was reached. It contains no other information.

2014, c. 1, a. 617.

618. If the mediator considers that a proposed settlement agreement is likely to lead to a dispute in the future or cause prejudice to one of the parties or to the children, the mediator is required to invite the parties to remedy the situation and, if necessary, to seek advice from a third person. If convinced that the possibility of prejudice cannot be eliminated, the mediator may put an end to the mediation process.

2014, c. 1, a. 618.

619. The Government designates the persons, bodies or associations that may certify family mediators and, by regulation, determines the standards with which those persons, bodies or associations must comply.

The Government, by regulation, may define the conditions mediators must satisfy to be certified and determine the standards with which certified mediators must comply in the exercise of their functions, as well as the sanctions applicable for non-compliance.

The Government, by regulation, may also determine what services are payable by the Family Mediation Service, set the tariff of professional fees the Service may pay certified family mediators and determine the time limit and procedure for claiming such professional fees and the applicable terms of payment. In addition, it may determine the tariff of professional fees the parties may be charged for services not covered by the Family Mediation Service or for services provided by a mediator designated by the Service or by more than one mediator.

The Minister of Justice, by order, determines the conditions subject to which technological means may be used by the Family Mediation Service, and specifies other services the Service may provide as well as the applicable conditions.

2014, c. 1, a. 619.

TITLE II

ARBITRATION

CHAPTER I

GENERAL PROVISIONS

620. Arbitration is the submission of a dispute to an arbitrator for a decision in accordance with the rules of law and, if appropriate, for a determination of damages. The arbitrator may act as *amiable compositeur* if the parties have so agreed. In all instances, the arbitrator decides the dispute in accordance with the stipulations of the contract between the parties and takes into account any applicable usages.

The arbitrator's mission also includes attempting to reconcile the parties, if they so request and circumstances permit, and continuing the arbitration process, with the parties' express consent, if the conciliation attempt fails.

2014, c. 1, a. 620.

621. Arbitrators cannot be prosecuted for an act performed in the course of their arbitration mission, unless they acted in bad faith or committed an intentional or gross fault.

2014, c. 1, a. 621.

622. Unless otherwise provided by law, the issues on which the parties have an arbitration agreement cannot be brought before a court even though it would have jurisdiction to decide the subject matter of the dispute.

A court seized of a dispute on such an issue is required, on a party's application, to refer the parties back to arbitration, unless the court finds the arbitration agreement to be null. The application for referral to arbitration must be made within 45 days after service of the originating application or within 90 days when the dispute involves a foreign element. Arbitration proceedings may be commenced or continued and an award made for so long as the court has not made its ruling.

The parties cannot, through their agreement, depart from the provisions of this Title that determine the jurisdiction of the court or from those relating to the application of the adversarial principle or the principle of proportionality, to the right to receive notification of a document or to the homologation or the annulment of an arbitration award.

2014, c. 1, a. 622; 2023, c. 3, s. 18.

623. The court, on an application, may grant provisional measures or safeguard orders before or during arbitration proceedings.

2014, c. 1, a. 623.

CHAPTER II

APPOINTMENT OF ARBITRATORS

624. The parties appoint an arbitrator to decide their dispute. They do so by mutual agreement, unless they ask a third person to make the appointment.

The parties may choose to appoint a panel of arbitrators, in which case each party appoints one arbitrator, and the two so appointed appoint the third.

If an arbitrator must be replaced, the procedure for the appointment of an arbitrator applies.

2014, c. 1, a. 624.

625. If the appointment of an arbitrator proves difficult, the court, on a party's request, may take any necessary measure to see to the appointment.

For example, if a party fails to appoint an arbitrator within 30 days after having been required by another party to do so, the court may make the appointment. As well, the court may appoint an arbitrator if, 30 days after two arbitrators are appointed, they cannot agree on the choice of the third arbitrator.

2014, c. 1, a. 625.

626. An arbitrator may be recused if there is serious reason to question their impartiality or if the arbitrator does not have the qualifications agreed by the parties.

An arbitrator is required to declare to the parties any fact that could cast doubt on the arbitrator's impartiality and justify a recusation.

2014, c. 1, a. 626.

627. A party may ask for an arbitrator's recusation by notifying a document stating its reasons to the other party, to the arbitrator concerned and, if applicable, to the other arbitrators, within 15 days after becoming aware of the appointment or appointments or of the cause for recusation.

A party may only ask for the recusation of an arbitrator it appointed for a cause which arose or was discovered after the appointment was made.

The arbitrator or arbitrators are required to rule on the recusation request without delay, unless the arbitrator concerned withdraws or, the other party supporting the request, is compelled to withdraw.

If the recusation cannot be so obtained, a party may, within 30 days after being advised of it, ask the court to rule on the recusation. The arbitrator concerned and, if there are more than one, the other arbitrators, may nonetheless continue the arbitration proceedings and make an award for so long as the court has not made its ruling.

2014, c. 1, a. 627.

628. A party may ask the court to revoke an arbitrator if it is impossible for the arbitrator to carry out their mission or if the arbitrator does not discharge their functions within a reasonable time.

2014, c. 1, a. 628.

629. If the procedure provided for in the arbitration agreement for the recusation or revocation of an arbitrator proves difficult to implement, the court may, on a party's request, rule on the matter.

2014, c. 1, a. 629.

630. Decisions of the court on appointment, recusation or revocation cannot be appealed.

2014, c. 1, a. 630.

CHAPTER III

CONDUCT OF ARBITRATION

631. Arbitration proceedings commence on the date of notification of one party to the other of a notice stating that it is submitting a dispute to arbitration and specifying the subject matter of the dispute.

The notice, like any other document that is required to be notified, is notified in accordance with this Code.

2014, c. 1, a. 631.

632. Arbitrators conduct the arbitration according to the procedure they determine; they are required, however, to see that the adversarial principle and the principle of proportionality are observed.

Arbitrators have all the necessary powers to exercise their jurisdiction, including the power to administer oaths, the power to appoint an expert and the power to rule on their own jurisdiction.

If an arbitrator rules on the arbitrator's own jurisdiction, a party, within 30 days after being advised of the decision, may ask the court to rule on the matter. A decision of the court recognizing the jurisdiction of the arbitrator cannot be appealed.

For so long as the court has not made its ruling, the arbitrator may continue the arbitration proceedings and make an award.

2014, c. 1, a. 632.

633. Arbitration proceedings are conducted orally, at a hearing, unless the parties agree on the matter being decided on the face of the record. In either case, a party may state its case in writing.

The arbitrator may require each party to send the arbitrator, within a specified time, a statement of its contentions and any exhibits mentioned, and to send them to the other party, if not already done. Any expert reports and other documents on which the arbitrator may base the arbitration award must also be sent to the parties.

The arbitrator advises the parties of the date of the hearing and, if applicable, of the date on which the arbitrator will inspect the property or visit the premises.

Witnesses are called, heard and indemnified according to the rules applicable to a trial before a court.

2014, c. 1, a. 633; I.N. 2016-12-01.

634. The arbitrator, or a party with leave of the arbitrator, may request the assistance of the court to obtain evidence, including to compel a witness who refuses, without valid reason, to attend, answer or produce real evidence in their possession.

2014, c. 1, a. 634.

635. If a party fails to state its contentions, attend at the hearing or present evidence in support of its contentions, the arbitrator, after recording the default, may continue the arbitration.

However, if the party that submitted the dispute to arbitration fails to state its contentions, the arbitration is ended unless the other party objects.

2014, c. 1, a. 635.

636. Decisions during arbitration proceedings are made immediately or, if they cannot be made immediately, as soon as possible; if they are in writing, they must be signed, as must the arbitration award.

If more than one arbitrator has been appointed, decisions are made by a majority of the panel. However, an arbitrator may rule alone on a question of procedure if so authorized by the parties or by all the other arbitrators.

2014, c. 1, a. 636.

637. The parties, subject to their agreement or unless the arbitrator decides otherwise, are equally liable for the arbitrator's professional fee and expenses.

2014, c. 1, a. 637.

CHAPTER IV

EXCEPTIONAL MEASURES

638. The arbitrator may, on a party's request, take any provisional measure or any measure to safeguard the parties' rights for the time and subject to the conditions the arbitrator determines and, if necessary, require that a suretyship be provided to cover costs and the reparation of any prejudice that may result from such a measure. Such a decision is binding on the parties but one of them may, if necessary, ask the court to homologate the decision to give it the same force and effect as a judgment of the court.

2014, c. 1, a. 638.

639. In an urgent situation, even before a request for a provisional or safeguard measure is notified to the other party, the arbitrator may issue a provisional order for a period which may in no case exceed 20 days. The arbitrator requires the party that requested the order to provide a suretyship unless, in the arbitrator's opinion, it is inappropriate or of no use.

The provisional order must be notified to the other party as soon as it is issued, with all the evidence attached. It is binding on the parties and cannot be homologated by the court.

2014, c. 1, a. 639.

640. The parties must disclose to the arbitrator without delay any material change in the circumstances based on which a provisional or safeguard measure or a provisional order was requested or granted.

The arbitrator may amend, stay or revoke a provisional or safeguard measure or a provisional order on the parties' request. In exceptional circumstances, the arbitrator may do so on the arbitrator's own initiative but must, in compliance with the adversarial principle, invite the parties to make representations.

2014, c. 1, a. 640.

641. If the arbitrator subsequently decides that a provisional or safeguard measure or a provisional order should not have been granted, the party that obtained the measure or order may be required to provide reparation for any prejudice caused to another party by the measure or order and to reimburse the costs

incurred by that other party. The arbitrator may award such reparation and costs at any time during the arbitration proceedings.

2014, c. 1, a. 641.

CHAPTER V

ARBITRATION AWARD

642. The arbitration award is binding on the parties. It must be made in writing and be signed by the arbitrator or arbitrators, and include reasons. It must state its date and the place where it was made. The award is deemed to have been made on that date and at that place.

In arbitration proceedings with more than one arbitrator, the arbitration award must be made by a majority of the panel. If one of the arbitrators refuses or is unable to sign the award, the others record that fact, and the award has the same effect as if it were signed by all of them.

The arbitration award must be made within three months after the matter is taken under advisement, but the parties may, more than once, agree to extend the time limit or, if it is expired, set a new one. In the absence of an agreement, the court may do as much, on a party's or the arbitrator's request. The decision of the court cannot be appealed.

If the parties settle the dispute, the agreement is recorded in an arbitration award.

The arbitration award is notified without delay to each party.

2014, c. 1, a. 642.

643. The arbitrator, on their own initiative, may correct any error in writing or calculation or any other clerical error in the arbitration award within 30 days after the award date.

Within 30 days after receiving the award, a party may ask the arbitrator to correct any clerical error or ask for a supplemental award on a part of the dispute that was not dealt with in the award or, with the other party's consent, for an interpretation of a specific passage of the award, in which case the interpretation forms an integral part of the award.

The decision correcting, supplementing or interpreting the arbitration award must be made within two months after it is requested. The rules applicable to the arbitration award apply to such a decision. If the decision is not rendered before the expiry of the prescribed time, a party may ask the court to issue an order to safeguard the parties' rights. The decision of the court cannot be appealed.

2014, c. 1, a. 643; I.N. 2016-12-01.

644. The arbitrator is required to preserve the confidentiality of the arbitration process and protect deliberative secrecy but violates neither by stating conclusions and reasons in the award.

2014, c. 1, a. 644.

CHAPTER VI

HOMOLOGATION

645. A party may apply to the court for the homologation of an arbitration award. As soon as it is homologated, the award acquires the force and effect of a judgment of the court.

The court seized of an application for the homologation of an arbitration award cannot review the merits of the dispute. It may stay its decision if the arbitrator has been asked to correct, supplement or interpret the award. In such a case, if the applicant so requires, the court may order a party to provide a suretyship.

2014, c. 1, a. 645.

646. The court cannot refuse to homologate an arbitration award or a provisional or safeguard measure unless it is proved that

(1) one of the parties did not have the capacity to enter into the arbitration agreement;

(2) the arbitration agreement is invalid under the law chosen by the parties or, failing any indication in that regard, under Québec law;

(3) the procedure for the appointment of an arbitrator or the applicable arbitration procedure was not observed;

(4) the party against which the award or measure is invoked was not given proper notice of the appointment of an arbitrator or of the arbitration proceedings, or it was for another reason impossible for that party to present its case; or

(5) the award pertains to a dispute not referred to in or covered by the arbitration agreement, or contains a conclusion on matters beyond the scope of the agreement, in which case only the irregular provision is not homologated if it can be dissociated from the rest.

The court cannot refuse to homologate the arbitration award on its own initiative unless it notes that the subject matter of the dispute is not one that may be settled by arbitration in Québec or that the award or measure is contrary to public order.

2014, c. 1, a. 646.

647. The court seized of an application for the homologation of a provisional or safeguard measure may deny the application if the arbitrator's decision to require a suretyship has not been complied with or the measure has been revoked or stayed by the arbitrator.

The court may order the applicant to provide a suretyship if the arbitrator has not already ruled on that subject or if such a decision is necessary to protect the rights of third persons.

2014, c. 1, a. 647.

CHAPTER VII

ANNULMENT OF ARBITRATION AWARD

648. An arbitration award may only be challenged by way of an application for its annulment. Such an application is subject to the same rules as those governing an application for the homologation of an arbitration award, with the necessary modifications.

Whether it constitutes an originating application or is presented to contest an application for homologation, the application for annulment must be presented within three months after receipt of the arbitration award or of the decision on the request for a correction, a supplemental award or an interpretation. This is a strict time limit.

The court, on request, may stay the application for annulment for the time it considers necessary to allow the arbitrator to take such action as will eliminate the grounds for annulment, even if the time prescribed for correcting, supplementing or interpreting the award has expired.

2014, c. 1, a. 648; I.N. 2016-12-01.

CHAPTER VIII

SPECIAL PROVISIONS APPLICABLE TO INTERNATIONAL COMMERCIAL ARBITRATION

649. If international trade interests, including interprovincial trade interests, are involved in arbitration proceedings, consideration may be given, in interpreting this Title, to the Model Law on International Commercial Arbitration adopted by the United Nations Commission on International Trade Law on 21 June 1985, and its amendments.

Recourse may also be had to documents related to that Model Law, including

(1) the Report of the United Nations Commission on International Trade Law on its eighteenth session held in Vienna from 3 to 21 June 1985; and

(2) the Analytical Commentary on the draft text of a model law on international commercial arbitration contained in the report of the Secretary-General to the eighteenth session of the United Nations Commission on International Trade Law.

2014, c. 1, a. 649.

650. International trade interests are considered to be involved in arbitration proceedings if, among other possibilities, the parties to the arbitration agreement have, at the time of the conclusion of that agreement, their places of business in different States or if the place where they choose to conduct the arbitration is outside the State in which they have their places of business. Such interests are also considered to be involved in arbitration proceedings if the place where a substantial part of the obligations of the commercial relationship is to be performed, or the place with which the subject matter of the dispute is most closely connected, is outside the State in which they have their places of business, or if the parties have expressly agreed that the subject matter of the arbitration agreement relates to more than one State.

2014, c. 1, a. 650.

651. The arbitrator decides the dispute in accordance with the rules of law chosen by the parties or, failing any such designation, in accordance with the rules of law the arbitrator considers appropriate.

2014, c. 1, a. 651.

CHAPTER IX

RECOGNITION AND ENFORCEMENT OF ARBITRATION AWARDS MADE OUTSIDE QUÉBEC

652. An arbitration award made outside Québec, whether or not confirmed by a competent authority, may be recognized and declared to have the same force and effect as a judgment of the court if the subject matter of the dispute is one which could be submitted to arbitration in Québec and if recognition and enforcement of the award are not contrary to public order. The same applies for a provisional or safeguard measure.

The application for recognition and enforcement must be accompanied by the arbitration award or measure concerned and the arbitration agreement and by a translation certified in Québec of those documents if they are drawn up in a language other than French or English. The translation must be in French if the party presenting the application is a legal person.

Consideration may be given, in interpreting the rules in this matter, to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards adopted by the United Nations Conference on International Commercial Arbitration at New York on 10 June 1958.

2014, c. 1, a. 652; 2022, c. 14, s. 145.

653. The court examining an application for recognition and enforcement of an arbitration award or a provisional or safeguard measure cannot review the merits of the dispute.

A party against which an award or a measure is invoked cannot oppose its recognition and enforcement unless the party proves that

(1) one of the parties did not have the capacity to enter into the arbitration agreement;

(2) the arbitration agreement is invalid under the law chosen by the parties or, failing any indication in that regard, under the law of the place where the award was made or the measure decided;

(3) the procedure for the appointment of an arbitrator or the arbitration procedure was not in accordance with the arbitration agreement or, failing such an agreement, with the law of the place where the arbitration proceedings were held;

(4) the party against which the award or the measure is invoked was not given proper notice of the appointment of an arbitrator or of the arbitration proceedings, or it was for another reason impossible for that party to present its case;

(5) the award pertains to a dispute not referred to in or covered by the arbitration agreement, or contains a conclusion on matters beyond the scope of the agreement, in which case only the irregular provision is not recognized and declared enforceable if it can be dissociated from the rest; or

(6) the award or measure has not yet become binding on the parties or has been annulled or stayed by a competent authority of the place where or under whose law the arbitration award was made or the measure decided.

The court may also deny an application for recognition and enforcement of a provisional or safeguard measure if the arbitrator's decision to require a suretyship was not complied with, if the measure was revoked or stayed by the arbitrator or if the measure is incompatible with the powers conferred on the court unless, in the latter case, the court decides to reformulate the provisional measure to adapt it to its own powers and procedures without modifying its substance.

2014, c. 1, a. 653.

654. The court may stay its decision in respect of the recognition and enforcement of an arbitration award if an application for the annulment or suspension of the award is pending before the competent authority of the place where or under whose law the arbitration award was made.

If the court stays its decision, it may, on the request of the party applying for recognition and enforcement of the award, order the other party to provide a suretyship.

2014, c. 1, a. 654.

655. The court may order the party applying for recognition and enforcement of a provisional or safeguard measure to provide a suretyship if the arbitrator has not already ruled on that subject or if such a decision is necessary to protect the rights of third persons.

2014, c. 1, a. 655.

BOOK VIII

EXECUTION OF JUDGMENTS

TITLE I

PRINCIPLES AND GENERAL RULES

CHAPTER I

GENERAL PROVISIONS

656. Judgments, including decisions of an administrative tribunal or a public body filed with the court office and juridical acts on which the law confers the force and effect of a judgment, are executed voluntarily by the payment of money, the surrender of property or the performance of what is ordered, either before the expiry of the time limits prescribed by law or within the time limit set out in the judgment or agreed between the parties.

Execution may be forced if the debtor refuses to comply voluntarily and the judgment has become final. However, in the case of a judgment under Title II of Book VI, execution may be forced only after the expiry of 30 days since it was rendered or, in the case of a default judgment following failure to answer the summons, attend a case management conference or defend on the merits, after the expiry of 10 days since it was rendered.

A judgment that has yet to become final may be executed if provisional execution is permitted by law or ordered by the court.

2014, c. 1, a. 656.

657. After the judgment, the court may issue any order to facilitate execution, whether forced or voluntary, in the manner that is most advantageous for the parties and most consistent with their interests.

2014, c. 1, a. 657.

658. Acts necessary for the purpose of executing a judgment are performed by a court bailiff acting as court officer under the authority of the court.

The bailiff may, in the course of executing a judgment, ask the court for any instruction the bailiff needs in order to act.

2014, c. 1, a. 658.

659. Any application, contestation or opposition with respect to execution is presented as if it were an application in the course of a proceeding. It is heard and decided without delay. It is presented without formality if the judgment was rendered under Title II of Book VI. In such a case, the rules of representation applicable under that Title also apply with respect to execution.

The application, contestation or opposition is presented in the district of the court that rendered the judgment. However, a bailiff applying for an authorization or presenting any other incidental application to the court or to the court clerk may do so in the district of the place where the execution proceedings are to be carried out.

When execution proceedings concern two or more judgments, the application, contestation or opposition is presented before the court that rendered the judgment which gave rise to the initial notice of execution, but if

the judgments were rendered at different jurisdictional levels, it is presented before the Court of Québec or, if the execution proceedings concern a judgment of the Superior Court, before the Superior Court.

2014, c. 1, a. 659.

CHAPTER II

PROVISIONAL EXECUTION

660. A judgment is provisionally executed as of right, if it

(1) concerns support payments or a support provision, determines arrangements regarding the custody of children or adjudicates on parental authority;

(2) orders a child's return under the Act respecting the civil aspects of international and interprovincial child abduction (chapter A-23.01);

(3) appoints, removes or replaces a tutor, temporary representative or other administrator of the property of others, or homologates or revokes a protection mandate;

(4) orders urgent repairs;

(5) orders an eviction in the absence of a lease or after the lease has expired or been resiliated or cancelled;

(6) orders a rendering of account or an inventory;

(7) orders any measure for the liquidation of a succession;

(8) adjudicates on the possession of property;

(9) adjudicates on the sequestration of property;

(10) adjudicates on an abuse of procedure;

(11) orders a provision for costs; or

(12) rules on legal costs, but only with respect to the portion not exceeding $15,000.

The judge may order the stay of provisional execution by a decision giving reasons. A judge of the Court of Appeal may also do so, or may lift a stay ordered by the judge of first instance.

2014, c. 1, a. 660; I.N. 2016-12-01; 2020, c. 11, s. 115.

661. If bringing an appeal is likely to cause serious or irreparable prejudice to one of the parties, the judge may, on an application, order provisional execution, even for part only of the judgment. The judge may also make provisional execution conditional on a surety being furnished.

If provisional execution is not ordered by the judgment itself, it cannot be ordered subsequently except on appeal, with or without a surety. A judge of the Court of Appeal may also stay or lift provisional execution if it has been ordered, or order that a suretyship be provided by a party that was exempted from doing so by the court of first instance.

2014, c. 1, a. 661.

CHAPTER III

VOLUNTARY EXECUTION

DIVISION I

PAYMENT

§ 1. — *General rule*

662. A judgment ordering a party to pay a sum of money is executed voluntarily by payment of the sum within the time limit and in the manner determined by the judgment or agreed between the parties.

2014, c. 1, a. 662.

§ 2. — *Payment in instalments*

663. Payment in instalments is a manner of execution by which the debtor gives an undertaking to the executing bailiff to make regular payments for the benefit of the creditor in satisfaction of the judgment. The amounts, due dates and other terms of payment are set out in an agreement, which must be approved by the creditor.

The instalments cannot be spread over more than one year. The debtor may, at any time, waive the benefit of paying in instalments by discharging the balance.

The instalment payment agreement, whether made before or after the filing of the notice of execution, is filed with the court office, in the record concerned, as is any waiver of that method of payment or any notice stating that the debtor has lost the benefit of the term. The agreement ends without notice as soon as another creditor seeks execution of a judgment rendered in their favour.

2014, c. 1, a. 663.

§ 3. — *Voluntary deposit*

664. Voluntary deposit is a manner of execution by which the debtor undertakes by means of a declaration, which is deemed sworn, to make regular payments to the office of the Court of Québec, in an amount which cannot be less than the seizable portion of their income, and to declare any change in their situation to the court clerk.

The declaration is registered with the court office. In addition to the debtor's contact information and statement as to income, family responsibilities and creditors, it contains a determination of the amount payable and the terms of payment, and specifies the supporting documents the debtor must provide.

The debtor must inform the court office of any change in the information contained in the debtor's declaration within 10 days after the change occurs. The debtor must also update the information yearly.

2014, c. 1, a. 664.

665. A debtor is exempt from seizure so long as the voluntary deposit undertaking is complied with: creditors can neither seize the debtor's property nor sue the debtor. Prescription of their right of action against the debtor is suspended.

In the event of failure to comply with the voluntary deposit undertaking, the debtor has 30 days to remedy the situation counting from notification of a notice from the court clerk directing the debtor to do so. If in default, the debtor loses the benefit of voluntary deposit unless there is a serious reason for the default, in which case the court clerk may grant the debtor a maximum additional extension of 30 days.

The debtor may, at any time, waive the benefit of voluntary deposit by means of a notice notified to the court clerk.

Should the debtor lose or waive the benefit of voluntary deposit, the court clerk informs the creditors and, if applicable, the bailiff.

2014, c. 1, a. 665.

666. The court clerk notifies the debtor's declaration to the creditors named in it, at no cost to the debtor, and invites them, for the purpose of participating in the distribution, to file their claim with the court office and make any representations they may have. The court clerk gives the list of declared creditors to any creditor who requests it. The court clerk also notifies to the creditors any declaration of a change in the debtor's situation.

Creditors are required to file their claim, which is deemed to be a sworn claim, within 30 days after the notification. The claim must set out the nature, date and amount of the debt and be filed with supporting documents. It is deemed, for the purpose of computing interest, to have been notified on the date of the debtor's initial or subsequent declaration.

A creditor who delays in notifying their claim or in filing supporting documents is only entitled, until the delay is remedied, to the amount determined according to the debtor's declaration.

2014, c. 1, a. 666.

667. A creditor or any other interested person may contest the debtor's declaration within 15 days after becoming aware of it. The contestation must be notified to the debtor, the court clerk and the bailiff, if applicable.

2014, c. 1, a. 667.

668. The court clerk distributes the sums collected according to the provisions on distributing seized income. The court costs and fees are included in the execution costs.

2014, c. 1, a. 668.

669. A deduction notice or payment order sent in accordance with the Act to facilitate the payment of support (chapter P-2.2) and a seizure under that Act remain effective even if the support debtor resorts to voluntary deposit. The amount deducted at source, paid or seized under that Act is subtracted from the amount to be deposited with the court clerk.

2014, c. 1, a. 669.

670. If a contracting party, an employer or another third person substantially changes or ends a contractual relationship with the debtor, the onus is on them, under pain of damages, to prove that they did not do so because the debtor resorted to voluntary deposit.

2014, c. 1, a. 670.

DIVISION II

SURRENDER

671. A judgment which orders the handing over of movable or immovable property is executed by the delivery of the movable property or the surrender of the immovable property so that the party entitled to it may take possession of it. However, the judgment may provide for another method of surrender.

2014, c. 1, a. 671.

DIVISION III

SURETYSHIP

672. A judgment requiring a suretyship to be provided sets the amount of the surety's liability and the time within which the surety is to be presented.

2014, c. 1, a. 672.

673. The judgment is executed by filing with the court office a notice presenting the surety, or stating the intention of the person required to provide a suretyship to instead provide other sufficient security and specifying the nature of that security.

By undertaking to act as surety, the surety, whose name and contact information are stated in the notice, agrees to show solvency, to provide information on guarantees and on property owned, and to produce the related titles.

The surety or the other security may be contested for not meeting the requirements prescribed by law or for insufficiency of the amount or guarantee offered.

2014, c. 1, a. 673.

674. If the surety is accepted, the suretyship agreement is filed with the court office and subsists despite a revocation of judgment or an appeal.

2014, c. 1, a. 674.

DIVISION IV

RENDERING OF ACCOUNT

675. A judgment ordering a rendering of account is executed by notifying the account and supporting documents, within the time set by the judgment, to the party that required the rendering of account. On such notification, the accounting party and its agent may be examined on any fact relating to the account, or be required to hand over any relevant document.

2014, c. 1, a. 675.

676. The account is prepared according to generally accepted accounting standards and the rules of the Civil Code dealing with the administration of property of others. Receivables are considered as income, and the cost of preparing and verifying the account, as expenditure. The legal costs are not taken into consideration, unless the court so allows.

2014, c. 1, a. 676.

677. The account is deemed to have been admitted if the party that required it has not contested it within 15 days after notification. Any remaining balance is then due.

The party may obtain and execute judgment for the remaining balance, without prejudice to its right to contest the remainder of the account. If the party contests it, the party files its grounds and their justification. The grounds are deemed valid if, within 10 days after notification, the party required to account has not filed its grounds and their justification. After the filing of grounds, the parties proceed to trial.

The judgment on the contestation must determine the precise balance of the account.

2014, c. 1, a. 677.

678. Failing voluntary execution, the party that required the rendering of account may prepare the account and have it set down for judgment. In that case, the party required to account cannot debate the account but may cross-examine the witnesses.

2014, c. 1, a. 678.

CHAPTER IV

FORCED EXECUTION

DIVISION I

GENERAL RULES

679. Forced execution is undertaken by the judgment creditor if the debtor does not execute the judgment voluntarily.

2014, c. 1, a. 679.

680. A creditor who wishes to force execution of a judgment gives execution instructions to a bailiff.

The instructions direct the bailiff to seize the debtor's property, including the debtor's income, and to dispose of it so as to satisfy the claim; they may also direct the bailiff to place the seizing creditor in possession of an item of property or to evict the person against whom the judgment has been rendered. The instructions must contain the information the bailiff needs to execute the judgment.

The creditor sends to the bailiff, together with the instructions, the money necessary for the execution of the judgment.

2014, c. 1, a. 680.

681. Execution begins by the filing of a notice of execution, in keeping with the model established by the Minister of Justice, with the court office.

On receiving the creditor's instructions, the bailiff completes the notice of execution by identifying the judgment to be executed, including its date, by writing in the name and contact information of the creditor, the debtor and the bailiff, and the amount of the claim, indicating, if such is the case, that the judgment has been partially executed, and by describing the execution measures to be taken. If the judgment is to be executed against an immovable, the immovable is described in accordance with the rules of the Civil Code, and its address is given.

The notice is served on the debtor and notified to the creditor.

2014, c. 1, a. 681.

682. All execution measures are set out in a single notice of execution. The notice may be amended, to complete execution, if the creditor gives new instructions or if another creditor commences execution of another judgment against the same debtor. In the latter case, the new creditor is required, as seizor, to join in the execution proceedings already commenced in the district where they were commenced. The new creditor gives instructions to the executing bailiff.

The bailiff files with the court office, in each of the records concerned, an amended notice identifying any creditor joining in the execution proceedings, setting out the particulars of that creditor's claim and describing any additional execution measures considered expedient. The bailiff notifies the amended notice to the debtor and to the creditors who gave the bailiff instructions.

2014, c. 1, a. 682.

DIVISION II

RIGHTS AND OBLIGATIONS OF PARTICIPANTS IN EXECUTION PROCEEDINGS

§ 1. — *General provisions*

683. On notification of a notice of execution, all participants in the execution proceedings are required, in addition to acting in accordance with the requirements of good faith, to co-operate in the proper execution of the judgment and abstain from doing anything likely to hinder it.

2014, c. 1, a. 683.

684. On being served with the notice of execution, the debtor is required to provide the bailiff with all the information needed to identify the debtor, including their date of birth, and information on their patrimonial situation, including a list of all creditors who could join in the execution proceedings in the course of the year, or who hold a hypothec on or have a right to revendicate the seized property.

On the bailiff's request, the court may order a person, a public officer or a public body to provide the bailiff with any information they have concerning the debtor's home and work contact information.

The order is enforceable despite any provision to the contrary in a general law or special Act providing for the confidentiality or non-disclosure of certain information or documents, subject to compliance with professional secrecy.

2014, c. 1, a. 684.

§ 2. — *Bailiffs*

685. Bailiffs have a duty of impartiality toward all participants in execution proceedings, as well as a general duty to provide information to them. Bailiffs may perform any act necessary for the exercise of their mission.

Specifically, a bailiff is required to inform the debtor and any garnishees of the content of the notice of execution and of their rights, and, on their request, explain the execution proceedings to them and the rules for computing the seizable portion of income. The bailiff is also required to carry out the creditors' instructions in the manner that is most advantageous not only for them but for all the parties. The bailiff informs the creditors named in the list provided by the debtor that a notice of execution has been filed and invites them to inform the bailiff of the nature and amount of their claim.

Unless they acted in bad faith or committed an intentional or gross fault, bailiffs cannot be held liable for the exercise of functions that are assigned to them in forced execution matters and relate to an eviction, the removal of property or the seizure of the debtor's property or of a passenger vehicle or to a sale under judicial authority as the method of realization in execution of a judgment.

2014, c. 1, a. 685.

686. If force must be used to enter a place for the purpose of seizing or removing property or evicting a person, the bailiff, before entering, must obtain the authorization of the special clerk of the district where the bailiff must carry out the execution proceedings. This authorization gives the bailiff access to all rooms, buildings and things on the premises.

The bailiff, if concerned about possible difficulties, may request the assistance of a peace officer.

2014, c. 1, a. 686.

687. The bailiff has, with respect to seized property, the powers of an administrator of the property of others charged with simple administration.

All sums seized by the bailiff, paid to the bailiff under an instalment payment agreement or derived from the disposition of property are deposited in a trust account until distribution.

2014, c. 1, a. 687.

DIVISION III

POST-JUDGMENT EXAMINATION

688. When a judgment has become enforceable, the judgment creditor or the bailiff may examine the debtor as to their income, obligations and debts, any sums owing to the debtor, any property the debtor owns or has owned since incurring the debt that is the basis for the judgment, and the property that is the subject of the judgment. During the examination, the debtor may be required to produce a document.

The creditor or the bailiff may also examine any other person who is in a position to provide information about the debtor's patrimony or any rights registered in the land register or the register of personal and movable real rights. If the person does not consent to being examined, the creditor or the bailiff must obtain the authorization of the court to conduct the examination.

2014, c. 1, a. 688.

689. The creditor or the bailiff informs the person to be examined of the nature of the examination and agrees with the person on its time and place. If they cannot agree on these points, the person is called to attend at court on the date specified in a subpoena, which must be served at least five days before that date.

The person's deposition is governed by the rules applicable to testimony given at trial. It is recorded, unless waived by the parties.

Any difficulty arising during the examination must be submitted to the court as soon as possible for a decision.

2014, c. 1, a. 689.

DIVISION IV

RULES APPLICABLE IN EVENT OF DEATH OR IN CASE OF INCAPACITY

690. The death of the debtor or the creditor does not interrupt the execution of the judgment.

If the debtor dies before a seizure is made, the judgment cannot be executed against the property of the succession until 10 days after service of the judgment on the liquidator, under pain of nullity of the seizure.

If the creditor dies, the judgment may be executed in the creditor's name unless it orders the performance of something that is purely personal to the creditor.

2014, c. 1, a. 690.

691. A judgment rendered against the tutor of a minor, or the tutor or mandatary of a person of full age, in that capacity, cannot be executed against the minor or the person of full age, once they become capable of exercising their rights, until 10 days after it has been served on them.

A judgment rendered in favour of a representative may be executed in the representative's name, even after that person ceases to be a representative.

2014, c. 1, a. 691; 2020, c. 11, s. 254.

DIVISION V

SPECIAL RULES APPLICABLE TO FORCED EXECUTION IN REAL ACTIONS

692. If the party ordered to deliver or surrender property fails to do so within the time set by the judgment ordering the eviction of the debtor or the removal of property or by a subsequent agreement between the parties, the judgment creditor may be placed in possession of the property by the notice of execution.

If it involves eviction, the notice must be served at least five days before it is to be executed. It orders the debtor to remove all movable property within a specified time limit or pay the costs incurred for its removal and informs the debtor that if the debtor fails to comply, the movable property will be deemed to have been abandoned.

No eviction may be carried out on a holiday or during the period extending from 24 December to 2 January.

2014, c. 1, a. 692.

693. Any movable property left on the premises on eviction of the debtor is deemed to have been abandoned by the debtor and the bailiff may sell it for the benefit of the creditor, give it away to a charity if it is not likely to be sold or otherwise dispose of it as the bailiff sees fit if it cannot be given away.

2014, c. 1, a. 693.

DIVISION VI

EXEMPTION FROM SEIZURE

694. A debtor's movable property that furnishes or decorates the debtor's principal residence, that is for the family's use and is needed for the life of the family, up to a market value of $7,000 as determined by the bailiff, and, if that value has not been attained, the personal objects the debtor chooses to keep may be exempted from seizure. Such movable property is presumed to belong to the debtor.

Work instruments needed for the personal exercise of the debtor's professional activities may also be exempted from seizure.

Such property may nevertheless be seized and sold for the amounts owed on the sale price, or seized and sold by a creditor holding a hypothec on it, as applicable.

Companion animals and the following property are exempt from seizure in the hands of debtors:

(1) the food, fuel, linens and clothing needed for their life and the life of their family;

(2) the things they need or a member of their family needs in order to compensate for a handicap or treat an illness;

(3) *(subparagraph repealed);*

(4) family papers and portraits, medals and other decorations.

Any waiver of the exemption of such property from seizure is null.

2014, c. 1, a. 694; 2015, c. 35, s. 7; I.N. 2016-12-01.

695. A passenger motor vehicle cannot be seized if the vehicle is necessary in order to maintain work income or an active job search. Nor can it be seized if it is necessary in order to meet the basic needs of the debtor and the debtor's dependants or ensure that they receive the care required by their state of health or can

pursue their education. Nevertheless, such a motor vehicle may be seized if the bailiff considers that the debtor can meet essential travel needs by using public transit, another vehicle that is available to the debtor or a replacement vehicle of lesser value.

A motor vehicle's exemption from seizure is ineffective against the seller as regards the amounts owed on the sale price and against a hypothecary creditor; it is also ineffective against a seizure in execution of a judgment that is subject to the rules of execution set out in the Code of Penal Procedure (chapter C-25.1).

2014, c. 1, a. 695.

696. The following are exempt from seizure:

(1) consecrated vessels and other things used for religious worship;

(2) books of account, debt securities and other papers if in the possession of a debtor who does not operate an enterprise, except bonds, promissory notes and other instruments payable to order or to bearer;

(3) amounts reimbursed to the debtor for costs relating to an illness, a disability or an accident;

(4) anything declared unseizable by law.

The following are also exempt from seizure:

(1) lump sum amounts and compensation, other than income replacement indemnities, paid in execution of a judgment or under a public compensation plan covering costs and losses resulting from a person's death or from bodily or moral injury;

(2) property declared by the donor or testator to be exempt from seizure, if the stipulation is made in an act by gratuitous title and is temporary and justified by a serious and legitimate interest. However, the property may be seized on the request of creditors whose claims are subsequent to the gift or the opening of the legacy, with leave of the court and to the extent it determines;

(3) contributions paid or to be paid into a supplemental pension plan to which an employer contributes on behalf of employees, or into another pension plan established or governed by law;

(4) the capital accumulated for the payment of an annuity or accumulated in a retirement savings instrument if the capital has been alienated or is under the control of a third person and satisfies the other prescriptions of law.

Nevertheless, the property described in the second paragraph may be seized up to a limit of 50% to execute partition of a family patrimony, a support claim or a compensatory allowance or the payment of a financial contribution as support to meet the needs of a child born as a result of a sexual assault. This rule has precedence over any contrary legislative provision.

2014, c. 1, a. 696; 2023, c. 13, s. 54.

697. Works of art and other cultural or historical property brought into Québec and placed or intended to be placed on public exhibit in Québec are exempt from seizure if the Government declares them so by order, for the period specified in the order. The order comes into force on its publication in the *Gazette officielle du Québec*.

Such exemption from seizure does not prevent the execution of a judgment against the property if it was originally designed, produced or created in Québec, or the execution of a judgment enforcing a service contract relating to the transportation, warehousing or exhibition of the property.

2014, c. 1, a. 697.

698. The debtor's income is exempt from seizure except the portion determined by the formula (A - B) × C.

A is the debtor's income, made up of

(1) remuneration in money, kind or services, paid for services rendered in the exercise of an office or under an employment contract, a service contract or a contract of enterprise or mandate;

(2) money paid as a retirement benefit, a pension, an income replacement indemnity or judicially awarded support, this money, however, being exempt from seizure in the hands of the payer; and

(3) money paid as a social assistance benefit, an Aim for Employment benefit, a social solidarity allowance or a basic income, except that sums received under the Individual and Family Assistance Act (chapter A-13.1.1) and declared by that Act to be exempt from seizure in the hands of the recipient are so exempt from seizure.

The following are not included in the debtor's income, however:

(1) support declared by the donor or testator to be exempt from seizure, except for the portion determined by the court;

(2) judicially awarded support, if intended to provide for a minor child;

(3) employer contributions to a retirement, insurance or social security fund;

(4) the value of food and lodging provided or paid by the employer for work-related travel.

B is the total of the exemptions to which the debtor is entitled for basic needs and those of dependants. Those exemptions are determined on the basis of the monthly amount granted as a social solidarity allowance to single persons under the Individual and Family Assistance Act, which amount is annualized then calculated on a weekly basis by the Minister of Justice, that is, $291; for the debtor, the exemption is 125% of the latter amount, that is, $363.75, for the first dependant, 50%, that is, $145.50, and for any other dependant, 25%, that is, $72.75; these figures are updated by the Minister on 1 April each year.

C is the seizure percentage, that is, 30%. However, for the execution of partition of a family patrimony or for the payment of a support debt, a financial contribution as support to meet the needs of a child born as a result of a sexual assault or a compensatory allowance, the percentage is 50%.

2014, c. 1, a. 698; I.N. 2015-07-01; I.N. 2016-04-01; I.N. 2017-04-01; 2016, c. 25, s. 40; I.N. 2018-03-01; I.N. 2019-03-01; I.N. 2020-03-01; I.N. 2020-12-10; I.N. 2021-12-01; 2018, c. 11, s. 25; I.N. 2023-03-15; 2023, c. 13, s. 55; I.N. 2024-04-01.

699. A debtor whose income consists in earnings as a self-employed worker or is received from an employer not resident in Québec must, to benefit from exemption from seizure for a portion of that income, enter into an agreement with the bailiff to pay in instalments over the period of time they determine, which may exceed the one year prescribed in article 663, or make a voluntary deposit undertaking with the court clerk. The debtor benefits from the exemption from seizure so long as all undertakings are complied with. The debtor may, to determine that income, subtract any expenses incurred to earn it.

2014, c. 1, a. 699.

700. The immovable serving as the debtor's principal residence may be seized to execute a support claim or to execute another claim of $20,000 or more, not including legal costs.

It may also be seized to execute a claim of any amount secured by a prior claim or a hypothec. In the case of a legal hypothec arising out of a judgment, however, the amount of the claim must be at least $20,000; otherwise, the registration of such a hypothec is valid only for conservatory purposes.

2014, c. 1, a. 700; I.N. 2016-12-01.

701. A decision made by the bailiff under the exemption from seizure rules may, on an application, be reviewed by the court.

2014, c. 1, a. 701.

TITLE II

SEIZURE OF PROPERTY

CHAPTER I

GENERAL PROVISIONS

702. A judgment creditor may exercise different means of execution at the same time.

A judgment creditor may seize any of the debtor's movable property that is in the debtor's possession or that is held by the creditor or a third person. The judgment creditor may also seize any immovables possessed by the debtor.

The effect of seizure is to place the property belonging to the debtor under judicial control.

2014, c. 1, a. 702.

703. Movable property is seized by the bailiff on the premises where it is located. Income or money is seized in the hands of the third persons who owe it, through notification of the notice of execution to them.

Fruits and other products of the soil that are seized are considered movable property even if they are not separated or extracted from the land.

2014, c. 1, a. 703.

CHAPTER II

SEIZURE OF MOVABLE AND IMMOVABLE PROPERTY IN EXECUTION

704. The seizure of movable property may be effected between 7 a.m. and 9 p.m. on any day except a holiday by serving the notice of execution on the debtor and the garnishee. It may be effected outside those hours with the permission of the court clerk obtained without formality and recorded on the notice of execution, and even on a holiday if the property is misappropriated, conveyed or abandoned.

A seizure not completed at 9 p.m. may be continued without formality past that time if the bailiff considers it necessary in the parties' interests; otherwise, it is continued as soon as possible in the following working days, after taking the necessary security measures.

2014, c. 1, a. 704; I.N. 2016-12-01.

705. The seizure of an immovable is effected by registering the minutes of seizure, together with the notice of execution and proof of service on the debtor, in the land register.

The Land Registrar registers the seizure on presentation of the minutes and notice.

2014, c. 1, a. 705; 2020, c. 17, s. 66.

706. Movables permanently and physically attached or joined to an immovable that are immovables under article 903 of the Civil Code may only be seized with the immovable to which they are attached or joined; however, they may be seized separately by a prior or hypothecary creditor, or by another creditor if they do not belong to the owner of the immovable.

2014, c. 1, a. 706.

707. A seizure is recorded in minutes prepared by the bailiff. The minutes must mention whether or not the debtor was present at the time of the seizure, and contain

(1) mention of the title under which the seizure is made;

(2) the date of the notice of execution and the name of the seizing creditor;

(3) the date and time and the nature of the seizure;

(4) a description of the property seized; and

(5) the name of the custodian and, if an authorization was granted by the court, a reference to that authorization.

In the case of a seizure of movable property, the minutes must also contain a list and the market value of the movable property left to the debtor if the value of the property seized is insufficient to pay the claim of the seizing creditor.

The minutes are notified to the debtor and the seizing creditor, as well as to all creditors having rights in the seized property and to any third person appointed as custodian.

2014, c. 1, a. 707.

708. When seizing movable property of an enterprise, a road vehicle, other movable property which, according to the regulation under article 2683 of the Civil Code, may be hypothecated or a group of such items of property, the bailiff checks in the register of personal and movable real rights whether rights in the property have been granted.

2014, c. 1, a. 708.

709. The debtor has two months from the seizure to sell a seized immovable by agreement unless it is hypothecated. If the debtor waives this right or does not exercise it within the prescribed time, the bailiff may sell the seized property.

A sale by the debtor is subject to the approval of the bailiff, who determines whether the sale price is commercially reasonable. If that is the case, the bailiff notifies a notice of sale to the seizing creditor, all creditors having rights in the seized property and the garnishee, who have 10 days to oppose the sale.

If no opposition is filed, the sale may be concluded on the expiry of that time limit. The sale price obtained must be deposited in the hands of the bailiff.

2014, c. 1, a. 709.

710. At any time before the sale of seized property, the debtor may obtain release of seizure by paying the judgment amount, including execution costs. If the seizure of certain property causes prejudice to the debtor and if the bailiff authorizes it, the debtor may also replace the seized property, unless it is hypothecated, by property whose sale will allow full satisfaction of the judgment.

If the debtor obtains release of seizure before the sale of the property, the bailiff attests to the release of seizure on the request of any interested person and files a notice of release in each of the records concerned at the court office.

2014, c. 1, a. 710.

CHAPTER III

SEIZURE IN THE HANDS OF THIRD PERSONS

DIVISION I

GENERAL RULES

711. The notice of execution served on the garnishee directs that person to declare to the bailiff, within 10 days, the amount, cause and terms of their current or potential indebtedness to the debtor at the time the declaration is made. The garnishee must provide with the declaration a detailed statement of the debtor's property that is in the garnishee's possession, specifying under what title the property is held. The garnishee must also disclose any seizures made in the garnishee's hands.

The bailiff files the garnishee's declaration with the court office and notifies it to the seizing creditor and the debtor, who have 10 days to contest it. If the execution proceedings are for two or more judgments or if two or more creditors are involved in the execution proceedings, the bailiff files the declaration in each of the records concerned.

2014, c. 1, a. 711.

712. Seizure makes the garnishee the custodian of the property seized.

On the bailiff's request or on the court clerk's order, the garnishee is required to deliver the debtor's property that is in the garnishee's possession to the bailiff. The garnishee is also required to give the bailiff, on request, all relevant documents relating to the garnishee's debt toward the debtor. In addition, on the seizing creditor's or the bailiff's express request, the garnishee is required to submit to an examination to complete the garnishee's declaration, as if it were a post-judgment examination.

2014, c. 1, a. 712.

713. If income of the debtor is seized, the garnishee is required, within 10 days after service of the notice of execution, to remit to the bailiff the seizable portion of what the garnishee owes to the debtor.

If the debtor has multiple sources of income, the bailiff, after determining the seizable portion of the income, determines the portion that each garnishee must withhold and remit to the bailiff. If the debtor's sources of income are not easily identifiable or are non-recurring, the bailiff determines, subject to an instalment payment agreement, the amount the debtor must pay to the bailiff.

If the garnishee substantially changes or ends the contractual relationship with the debtor, the garnishee is required to declare as much to the bailiff without delay. If a dispute arises between the garnishee and the debtor, the onus is on the garnishee, under pain of damages, to prove that the contractual relationship was not changed or ended because of the seizure of income.

The seizure remains binding for so long as the debtor's sources of income are maintained and all claims filed by the creditors have not been paid.

2014, c. 1, a. 713.

714. If the garnishee declares that the debtor works for the garnishee without being paid or for remuneration that is clearly less than the value of the services rendered, the bailiff or a creditor may ask the

court to assess the value of the services rendered and determine a fair remuneration. The remuneration determined by the court is deemed to be the debtor's remuneration from the date of the application until it is shown that the amount should be changed. The application is notified to the debtor and the garnishee at least five days before it is to be presented before the court; the decision of the court cannot be appealed.

2014, c. 1, a. 714.

715. If the garnishee's debt is payable at a future time, the garnishee must, at maturity, pay to the bailiff what the garnishee owes to the debtor. If it is subject to a condition or to the performance of an obligation by the debtor, the seizure is binding until the condition is fulfilled or the obligation performed.

2014, c. 1, a. 715.

716. If the garnishee declares not being indebted to the debtor and cannot be proved to be so, the garnishee or the debtor may obtain a release of seizure from the bailiff, with execution costs to be borne by the seizing creditor.

2014, c. 1, a. 716.

717. If the garnishee is in default for failure to declare, withhold or deposit a sum of money or makes a declaration that proves to be false, the garnishee may be ordered to pay the sum owing to the seizing creditor as if the garnishee were the debtor.

The garnishee may, however, obtain the authorization to declare or deposit at any time, even after judgment, on payment of the sums the garnishee should have withheld and deposited since notification of the notice of execution. In such a case, the garnishee is required to pay all costs resulting from the default.

2014, c. 1, a. 717.

718. If, while a seizure is binding or its execution is stayed, a judgment ordering partition of a family patrimony or awarding support or a compensatory allowance operates to change the amount that the garnishee must pay, the bailiff, on being informed of the judgment, so advises the garnishee, the debtor and the other parties.

2014, c. 1, a. 718.

DIVISION II

SPECIAL RULES IN SUPPORT MATTERS

719. If a seizure of income is effected under a judgment awarding support, it applies to payments to become due as well as to arrears, as indexed if applicable; it remains binding until release is given. The same applies if the seizure is effected under the Family Orders and Agreements Execution Assistance Act (R.S.C. 1985, c. 4 (2nd Suppl.)).

Release may be given on the expiry of one year after the payment of all arrears, if there is no other claim in the record and execution has not been stayed; release cannot be given, however, if the Minister of Revenue is acting in the capacity of claimant or seizing creditor under the Act to facilitate the payment of support (chapter P-2.2).

2014, c. 1, a. 719.

720. If a judgment awarding support has been executed by the creditor by a seizure of income and there is no other claim in the record, the bailiff, on the debtor's request, may, once the arrears are paid, stay the execution of the seizure provided the debtor undertakes to make the support payments, as they become due, directly to the bailiff and provides sufficient guarantees to secure compliance with that undertaking.

Such a stay may be granted for not less than six months nor more than one year; the bailiff advises the support creditor and the other creditors, as well as the garnishee, who then ceases to make deposits. During that period, the bailiff pays the sums received from the debtor to the support creditor at least monthly.

2014, c. 1, a. 720.

721. The bailiff grants release of seizure if the seizure does not become enforceable again at the end of the stay.

The seizure becomes enforceable again if the debtor fails to make a payment when it becomes due, or if a claim is filed in the debtor's record by a third person. The bailiff advises the support creditor, the other creditors as well as the garnishee, who must, within 10 days after being advised, remit the seizable portion of the debtor's income to the bailiff.

2014, c. 1, a. 721.

CHAPTER IV

SPECIAL RULES APPLICABLE TO CERTAIN SEIZURES

DIVISION I

SEIZURE ON DEBTOR'S PERSON

722. If the bailiff is convinced that there is property of value on the debtor's person, the bailiff may apply to the court for authorization to seize the property on the debtor's person and to obtain the assistance of a peace officer if necessary. The application need not be notified to the debtor.

Before making the seizure so authorized, the bailiff must ask the debtor to hand over the property. If the debtor refuses, the bailiff may search the debtor, with the assistance of a peace officer if necessary. The search and seizure is carried out in such a manner as to limit violations of personal rights and freedoms.

2014, c. 1, a. 722.

DIVISION II

SEIZURE OF SECURITIES OR SECURITY ENTITLEMENTS TO FINANCIAL ASSETS

723. Certificated securities are seized by seizing certificates, through service of the notice of execution on the person holding the certificates and on the issuer or the issuer's transfer agent in Québec. If certificates that should have been issued were not issued, the securities are seized in the hands of the issuer, who is then required to issue a certificate in the debtor's name and hand it over to the bailiff.

Uncertificated securities or security entitlements to financial assets are seized by serving the notice of execution on the issuer or on the securities intermediary that maintains the debtor's securities account, as applicable.

2014, c. 1, a. 723.

724. Securities, whether certificated or uncertificated, or security entitlements to financial assets may be seized by serving the notice of execution on a secured creditor if

(1) the certificates representing the securities are in the secured creditor's possession;

(2) the uncertificated securities are registered in the secured creditor's name in the issuer's records; or

(3) the security entitlements to financial assets are held in the secured creditor's name in a securities account maintained for the debtor by a securities intermediary.

2014, c. 1, a. 724.

725. The seizure of securities or security entitlements to financial assets entails the seizure of the interest, dividends, distributions and other rights attached.

2014, c. 1, a. 725.

726. When certificated securities are seized, the issuer must declare to the bailiff the number of securities held by the debtor, the extent to which the securities are paid up and the interest, dividends or other distributions declared but not yet paid.

2014, c. 1, a. 726.

DIVISION III

SEIZURE OF TECHNOLOGICAL MEDIA

727. On seizing a technological medium, the bailiff is required to inform the debtor or the garnishee of their right to transfer any documents they wish to preserve from the seized medium to another medium.

If custody of the seized medium has been entrusted to a third person, the debtor or the garnishee is required to advise the bailiff, within 15 days after the seizure, of their intention to transfer documents.

The costs of the transfer are borne by the debtor or the garnishee.

2014, c. 1, a. 727.

728. If there is no opposition to the seizure or the opposition has been dismissed, the bailiff destroys all documents on the medium before the sale and draws up minutes recording their destruction.

If the bailiff considers it necessary, a specialist may be called on to assist with the destruction of the documents. If any of the documents are covered by the professional secrecy imposed on the debtor or the garnishee, the bailiff must be assisted by a representative designated by the professional order of the debtor or the garnishee.

2014, c. 1, a. 728.

DIVISION IV

SEIZURE OF PROPERTY IN SAFE OR SAFETY DEPOSIT BOX

729. Property in a safe or a safety deposit box is seized through the opening of the safe or box and the drawing up of minutes of seizure by the bailiff. The minutes of seizure, which must state the names of the persons present and describe the content of the safe or box and the property seized, are notified to the creditor and the debtor and, if applicable, to the lessor in the lessor's capacity as custodian.

If the bailiff cannot obtain the debtor's co-operation in opening the safe or safety deposit box, the court, on an application, may authorize the opening of the safe or box in the manner it determines. The application is notified to the debtor and, if applicable, to the lessor and any other lessees of the safe or box. As of the notification, the lessor is prohibited from giving access to the safe or box in the bailiff's absence.

2014, c. 1, a. 729.

DIVISION V

SEIZURE OF REGISTERED ROAD VEHICLES

730. A registered road vehicle may be seized through notification of the notice of execution to the Société de l'assurance automobile du Québec. The notice of execution contains the number appearing on the registration plate of the seized vehicle and the identification number, model and year of the vehicle.

No transfer of registration may be made after notification of the notice of execution unless the Société is informed by the bailiff that a release of seizure has been granted.

2014, c. 1, a. 730.

CHAPTER V

CUSTODY OF SEIZED PROPERTY

731. The bailiff gives custody of the seized property to the debtor, who is required to accept it. If the debtor is a legal person, the bailiff gives custody of the property to its officers or to one of its officers.

With the authorization of the court, the bailiff may entrust the seized property to a custodian other than the debtor. Custody of the property cannot be given to an insolvent person or to a person who may be placed in a conflict of interest situation as a result, and the custody costs must be reasonable under the circumstances.

The seizing creditor, the creditor's attorney, their spouses and persons related to them or connected to them by marriage or civil union up to the fourth degree cannot act as custodian, except if they are already in possession of the property and consent to the seizure.

The custodian of seized property is required to disclose to the bailiff any situation which may result in the loss of the property.

2014, c. 1, a. 731.

732. If the seizure is against an immovable, the bailiff may ask the court to appoint a sequestrator.

The sequestrator so appointed is answerable to the bailiff for the sequestrator's administration; the sequestrator, after advising the interested persons, collects the fruits and revenues of the immovable, which, after deducting expenses, are immobilized to be distributed in the same manner as the proceeds of the sale.

2014, c. 1, a. 732.

733. The custodian of seized property may move the property, with the bailiff's consent. The custodian is required to produce the property on the bailiff's request and, on doing so, is entitled to a discharge or receipt for the property delivered.

If the custodian removes the property without the bailiff's consent, fails to produce it, damages it or fails to disclose a situation that results in its loss, the custodian is required to provide reparation for any resulting prejudice and is liable to contempt of court.

2014, c. 1, a. 733.

734. The bailiff may replace a custodian, other than the debtor, who has become insolvent or wishes to be discharged, for any cause considered sufficient.

Before entrusting the property to a new custodian, the bailiff draws up a report ascertaining the state or condition of the property.

2014, c. 1, a. 734.

CHAPTER VI

OPPOSITION TO SEIZURE AND SALE

DIVISION I

GENERAL PROVISIONS

735. A person may oppose the seizure or proposed sale of property and ask for the annulment in whole or in part of the seizure or sale proceedings if

(1) the property is exempt from seizure;

(2) the debt is extinguished;

(3) the proposed sale price is not commercially reasonable;

(4) the proceedings are affected by an irregularity resulting in serious prejudice, subject to the power of the court to authorize the bailiff or the seizing creditor to remedy the irregularity; or

(5) a right may be exercised to revendicate the seized property or any part of it.

The debtor's creditors may oppose the proposed sale only if the proposed sale price is not commercially reasonable or if the sale may be affected by serious irregularities.

A third person in whose favour an encumbrance exists against the property may also oppose the sale if the property is advertised without any mention of the encumbrance and the encumbrance will be discharged by the sale.

As well, any person whose interests are adversely affected by reason of the seized property being advertised as being subject to an encumbrance may oppose the property being sold subject to the encumbrance, unless sufficient security is given to guarantee that the property will be sold for a price that will ensure payment of the person's claim.

2014, c. 1, a. 735.

736. The opposition must, within 15 days after notification of the minutes of seizure, the notice of sale or the seizure in the hands of a third person, be served on the bailiff, the debtor, the seizing creditor and the garnishee, and notified to the other creditors and the persons whose rights in the property are registered in the land register or the register of personal and movable real rights.

2014, c. 1, a. 736.

DIVISION II

EFFECTS OF OPPOSITION

737. Notification of an opposition stays execution.

If, however, the opposition is made solely to obtain a reduction of the amount claimed or a withdrawal from seizure of part of the seized property, it does not stay execution; the bailiff proceeds with execution to

satisfy the uncontested part of the claim or to realize the property against which the opposition is not directed, unless the court orders a stay of all proceedings.

An opposition made after the prescribed time that is notified before the sale cannot stop the sale, except if the court so orders on the opposer showing sufficient cause.

2014, c. 1, a. 737.

738. An opposition to a seizure of income stays only the distribution of the sums seized. However, if a judgment awarding support is being executed, the distribution of the income already seized is not stayed unless the court orders it stayed for exceptional reasons.

2014, c. 1, a. 738.

739. If the bailiff has received execution instructions or claims from two or more creditors, and an opposition relates to the instructions given by one of them only, the bailiff, to the extent possible and after having advised the opposer, continues to execute in order to satisfy the instructions and claims of the other creditors.

2014, c. 1, a. 739.

740. An opposer whose opposition is dismissed is liable toward the creditors, the debtor and the garnishee for the interest on the amount due to the creditors and for the cost of safekeeping the property for the time during which execution was stayed.

2014, c. 1, a. 740.

741. An opposition by a person whose earlier opposition was dismissed does not stay execution unless it is based on facts that occurred after the earlier opposition was made and the stay is ordered by the court. The application for stay, which may be made without formality, must be preceded by two days' notice to the seizing creditor, unless the court dispenses with such notice.

2014, c. 1, a. 741.

TITLE III

SALE UNDER JUDICIAL AUTHORITY

CHAPTER I

CONDUCT OF SALE

742. A sale under judicial authority is conducted to sell property seized to execute a judgment or property that is surrendered or whose surrender is ordered on the exercise of hypothecary rights.

In the former case, the sale is under the responsibility of a bailiff and governed by the rules of this Title. In the latter case, the sale is under the responsibility of the person designated under article 2791 of the Civil Code and is governed by the rules of that Code and, with the necessary modifications, by the rules of this Title.

2014, c. 1, a. 742.

743. The bailiff in charge of the sale is responsible for the conduct of all related operations. The bailiff is required to inform the interested persons and, at the time of the sale, the purchaser, of the capacity in which the bailiff is acting.

The bailiff is duty-bound to keep the creditor, the debtor and any other interested person who so requests informed of any steps taken, and to keep records that are sufficiently detailed for the rendering of an account to the court and to the interested persons.

The bailiff, if they consider it necessary, may ask the court for any instruction or order to facilitate the performance of their duties and ensure the most advantageous sale.

2014, c. 1, a. 743.

744. The bailiff has the option, depending on the nature of the property, of selling by agreement, through a call for tenders or by auction; the bailiff sets the terms of the sale.

The sale must be made in the interests of the debtor and the creditors, at a commercially reasonable price and using the most appropriate method of realization in the circumstances.

2014, c. 1, a. 744.

745. The bailiff may sell, without delay or formality, movable property that is perishable, likely to depreciate rapidly or expensive to preserve.

2014, c. 1, a. 745.

746. If several items of property have been seized, only those whose sale is necessary to pay the claims, including principal, interest and costs, may be sold, unless the debtor consents in writing to the sale of all the seized property. The debtor has the right, except as regards rights conferred by law to hypothecary creditors, to determine the order in which the seized property is to be sold.

2014, c. 1, a. 746.

CHAPTER II

METHOD OF REALIZATION

747. The bailiff may fix a reserve price for property offered for sale. The bailiff may seek an expert appraisal if the nature or value of the property justifies doing so.

2014, c. 1, a. 747.

748. Whether the sale is by agreement, through a call for tenders or by auction, it must be preceded by the publication of a notice setting out the nature of the property, the method of sale used and the charges and terms and conditions of the sale. The notice of sale is published in the sales register kept by the Minister of Justice, as well as in the land register if the property is an immovable.

In order to achieve a better realization of the property, the bailiff may also, on the request and at the expense of the debtor or a creditor, further publicize the sale.

The Minister may, by regulation, establish standards concerning the presentation, form and content of notices, the storage medium for and the manner of keeping the sales register, consultation procedures, the storage medium and schedule for preserving the notices, as well as any other rules needed to set up and run the register, including the applicable tariffs.

2014, c. 1, a. 748.

749. The notice of sale must be so published at least 30 days before the scheduled sale date.

The bailiff notifies the notice without delay to the debtor, the garnishees and any creditors having advised the bailiff of their claim or registered their right in the seized property in the register of personal and movable

real rights or the land register and having required the registration of their address in connection with the property.

If the sale does not take place, the bailiff records as much in the sales register and, if applicable, informs the land registrar so that the notice of sale may be struck from the land register.

2014, c. 1, a. 749.

750. The bailiff may take into consideration any representations made by the debtor, a creditor or a third person pursuing an interest in the property on the method of sale chosen, the terms of sale or the reserve price.

Within 10 days before the sale of the property, anyone who is not satisfied with the bailiff's response may go before the court. However, the sale is stayed only if the court orders that it be stayed.

2014, c. 1, a. 750.

751. If the sale is stayed, either because an application is pending, the court has ordered it or the debtor and the creditors have consented to it, the bailiff publishes a notice of the stay in the sales register. When the stay is lifted, if the sale can take place on the date initially stated in the notice, the bailiff records as much in the sales register. If the sale cannot take place on that date, the bailiff must publish a new notice of sale.

2014, c. 1, a. 751.

752. The bailiff conducting the sale is deemed to represent the owner of the property for the conclusion of the contract of sale, which the bailiff has power to sign in the owner's name. The purchaser is required to pay the price to the bailiff.

2014, c. 1, a. 752.

753. A bailiff conducting the sale by a call for tenders may do so by invitation or by a public call for tenders. Sufficient information must be included in the call for tenders to allow bidders to tender in sufficient time.

The bailiff is required to accept the highest tender unless the conditions attached to it render it less advantageous than another lower tender, or unless the price tendered is not commercially reasonable.

2014, c. 1, a. 753; I.N. 2016-12-01.

754. In the case of a sale by auction, the bailiff sets out in the notice of sale the nature of the property, the reserve price, if any, and sufficient information to allow bids to be made. Also to be included is the bailiff's name and contact information and those of the auctioneer selected, if any.

If bids may be entered by way of information technology, the notice must state how and when bids will be received and must specify the closing date.

At the sale, the bailiff or the auctioneer, as applicable, may, in the interests of the creditors or the debtor, refuse a bid, withdraw the property and put it up for sale again, with or without a reserve price, or end the sale.

2014, c. 1, a. 754.

755. The bailiff is bound by the conditions and restrictions that govern the transfer of securities and the establishment of security entitlements to financial assets and are set out in the issuer's constituting act or by-laws or in the instrument governing the securities account maintained by a securities intermediary. As well, the bailiff is bound by the conditions and restrictions set out in an agreement to which the debtor is party. The bailiff may apply to the court for an order authorizing the sale if such conditions and restrictions significantly

reduce the value of the securities or security entitlements; in such a case, the court determines the applicable conditions.

The purchaser of the securities or security entitlements is subject to the conditions and restrictions set out in the legal person's constituting act and by-laws and any unanimous shareholder agreement. The purchaser must be informed beforehand of any restrictions attached to the securities or security entitlements.

2014, c. 1, a. 755.

756. If property cannot be sold, the bailiff returns it to its owner. If the owner refuses the property, the bailiff may give it away to a charity or, if it cannot be given away, dispose of it as the bailiff sees fit.

2014, c. 1, a. 756.

CHAPTER III

SALE AND EFFECTS OF SALE

757. As soon as the sale is made, the bailiff publishes in the sales register a notice stating the price and the terms of the sale. The notice is also filed with the court office.

2014, c. 1, a. 757.

758. If the purchaser refuses to sign the deed of sale, to pay the sale price, or to take possession of the property, the bailiff, on the expiry of 10 days after the sale, may obtain an order from the court having the same force and effect as a deed of sale or an order for forced surrender, for eviction from the immovable or for forced removal of the movable property.

2014, c. 1, a. 758.

759. The sale discharges all real rights not included in the terms of sale. It does not discharge

(1) servitudes;

(2) emphyteusis, the rights needed to exercise superficies, and substitutions not yet open, except when a prior or preferred claim is mentioned in the court record; or

(3) the administrative encumbrance affecting a low-rental housing complex.

The sale does not terminate leases in progress that are registered in the register of personal and movable real rights or the land register.

Nor does the sale affect the legal hypothec securing the rights of legal persons established in the public interest in respect of special municipal or school taxes that are not yet due and the payment of which is spread over a number of years; such taxes do not become due by reason of the sale of the immovable and are not collocated, but remain payable in accordance with the terms of their imposition.

2014, c. 1, a. 759.

760. The sale may be annulled on the application of the purchaser if the latter is liable to eviction by reason of some real right not discharged by the sale, or if the property differs so much from the description given in the notice of sale or the minutes of seizure that it is to be presumed that the purchaser would not have bought it had the purchaser been aware of the true description. The sale may also be annulled on the application of the debtor or a creditor if the property is sold for a price that is clearly unreasonable given market conditions or if the sale is affected by serious irregularities that could not, despite reasonable diligence, be raised before the sale.

The application for the annulment of a sale must be notified within 20 days after the sale in the case of movable property, or within 60 days after the sale in the case of immovable property. These are strict time limits. On the expiry of the time limits, the court clerk may, on request, issue a certificate attesting that no application for the annulment of the sale has been filed.

2014, c. 1, a. 760.

761. The sale of property is considered to have been made at a commercially reasonable price if, in light of the specific circumstances of the sale, the sale price corresponds, to the extent possible, to the market value of the property.

In the case of an immovable, the sale price may in no case be lower than 50% of its assessed value as entered on the municipal assessment roll, multiplied by the factor determined for that roll by the minister responsible for municipal affairs under the Act respecting municipal taxation (chapter F-2.1), unless the court is convinced that the immovable cannot be sold within an acceptable time for such a price.

2014, c. 1, a. 761.

TITLE IV

DISTRIBUTION OF PROCEEDS OF EXECUTION

CHAPTER I

GENERAL PROVISIONS

762. A bailiff who sells property following a judicial authorization or a seizure or who seizes sums of money is responsible for distributing the proceeds of the sale or the sums seized to the creditors. A bailiff or a court clerk who periodically collects income of a debtor is responsible for distributing the sums collected to the creditors.

If the bailiff considers it necessary, the bailiff may retain the services of a lawyer or a notary to assist in preparing the collocation scheme, or ask the court for any order to facilitate the distribution of the proceeds of the sale or the sums seized.

2014, c. 1, a. 762.

CHAPTER II

DISTRIBUTION OF PROCEEDS OF SALE OR MONEY SEIZED

DIVISION I

BAILIFF'S REPORT

763. Within 30 days after the sale is made, the sums of money seized are remitted to the bailiff or an affirmative declaration is made by the garnishee, the bailiff files a report with the court office, attaching all supporting documents, including any appraisal obtained beforehand, the confirmation given by the dealer in charge of the sale of securities or security entitlements listed and traded on a stock exchange, or the statement certified by the registrar.

The report states the names and contact information of the debtor and of the seizing creditor as well as those of the garnishee if property has been seized in the hands of a third person and those of the purchaser if a sale has occurred. If applicable, the report records the garnishee's declaration and the fact that it was not contested, and sets out the terms and conditions of the sale. It refers to the minutes of seizure and the publications made, mentions any opposition filed, and specifies all sums obtained; it mentions any minutes

drawn up in the course of execution. If two or more persons are entitled to the proceeds of the sale or the sums seized, it must also include a collocation scheme.

2014, c. 1, a. 763.

764. For the preparation of the report, the bailiff may call a creditor to attend in order to be examined on facts relating to an encumbrance mentioned in the statement certified by the registrar or a claim filed in the record.

An admission by the creditor has full effect against the creditor without any further proceeding or formality.

2014, c. 1, a. 764.

765. The bailiff's report is notified to the debtor, to the creditors entitled to the proceeds of the sale or the sums seized, to the creditors whose rights are registered in the land register or the register of personal and movable real rights, and, in the case of an immovable, to the municipality and the school service centre or school board in whose territory the immovable is located.

2014, c. 1, a. 765; 2020, c. 1, s. 310.

DIVISION II

COLLOCATION SCHEME

766. The collocation scheme states the names and contact information of the creditors, the nature of their claim, the date of the title and of its registration, if applicable, and the amount to which each creditor is entitled. It specifies, for each creditor, whether the claim pertains to the whole amount to be distributed or only to the proceeds of the sale of a particular item of property or of part of an item of property.

The scheme determines the order of collocation according to the rank of the creditors, as follows:

(1) execution costs, in the following order:

— the cost of the bailiff's report;

— the cost of the sale and the cost of distributing the proceeds of the sale or the sums seized;

— the cost of the seizure, including the cost of any post-judgment examination, and costs relating to the transportation and safekeeping of the property;

— the professional fee and other expenses of the bailiff;

— the cost of incidental proceedings subsequent to the judgment; and

— the legal costs, if any, of the seizing creditor;

(2) prior claims against the property sold;

(3) hypothecary claims against the property sold;

(4) unsecured claims.

If an opposition to the seizure was made tardily by a person revendicating the property or holding a real right in the property, and the opposition was allowed after the sale, the bailiff enters the person's claim in the collocation scheme, according to the person's rank.

2014, c. 1, a. 766.

767. If there are indeterminate or unliquidated claims, the bailiff must reserve a sum sufficient to cover them out of the available moneys; the sum is deposited in a trust account until the claims are determined or liquidated, unless a judge orders otherwise.

If there are conditional claims, the creditors concerned are collocated according to their rank, but the amount of their claims is paid to subsequent creditors whose claims are payable, provided they give security, within the month following notification of the bailiff's report, for the return of the money when the condition is fulfilled. If the subsequent creditors fail to give security, or if there are no subsequent creditors, the amount is paid to the debtor, on condition of security being given, or, if the debtor fails to give security, to the conditional creditors, on condition of security being given for the return of the money in the event that the condition fails or becomes impossible, and paying interest to the bailiff, who distributes the interest to the creditors or remits it to the debtor after satisfying the creditors.

If there is a hypothecary claim with a term of payment, it becomes due on the sale of the hypothecated immovable, and is collocated accordingly.

2014, c. 1, a. 767.

768. If two or more items of property separately charged with different claims are sold for an aggregate price or if a creditor has a claim against part only of an item of property, the bailiff prorates the amount to be distributed if it is insufficient, and obtains an expert opinion if the record does not contain sufficient information. The share to be given to each creditor is calculated by determining the value of each item or part of property in relation to the value of the whole.

2014, c. 1, a. 768.

769. The bailiff, on their own initiative or on the request of an interested person, may revise the collocation scheme if it contains an error, in which case the bailiff is required to notify the collocation anew and file it with the court office.

2014, c. 1, a. 769.

770. Within 10 days after notification of the bailiff's report or the revised collocation scheme, any interested person may contest the scheme and ask the court for a determination of the persons to whom the proceeds of the sale and the sums seized are to be distributed.

The application is notified to the bailiff and to all those who received the bailiff's report. On such notification, the bailiff stays the distribution proceedings either entirely or only for the contested claim and subsequent claims.

2014, c. 1, a. 770.

771. If there is no contestation or as soon as a judgment is rendered dismissing the contestation, the bailiff distributes the proceeds of the sale and the sums seized without delay, as provided in the bailiff's report.

2014, c. 1, a. 771.

CHAPTER III

DISTRIBUTION OF SEIZED INCOME

772. Periodically seized or collected income must be distributed to the creditors by the bailiff or, as applicable, by the court clerk at least quarterly, but in the case of a support creditor, at least monthly.

2014, c. 1, a. 772.

773. While a seizure of income remains binding, not only the seizing creditor but all creditors may participate in the distribution of the income; they must however have notified their claim, setting out the

nature, date and amount of the debt, to the bailiff or the court clerk and to the debtor, the seizing creditor and the garnishee, and have provided supporting documents.

In the absence of supporting documents, the claim is not admissible, unless it is established to the satisfaction of the court that it is impossible for the creditor to produce such documents.

2014, c. 1, a. 773.

774. A claim bears interest from the date it was notified to the bailiff or the court clerk, at the lesser of the legal rate and the rate agreed between the parties; no claim relating to the difference between the interest rate agreed between the parties and the legal rate, for any period during which the legal rate is applicable, may be accepted.

2014, c. 1, a. 774.

775. Any interested party may, within 15 days after receiving notification of a creditor's claim, contest the claim by notifying the contestation to the bailiff or the court clerk, the debtor and the seizing creditor. The bailiff or the court clerk retains the sums the creditor would have been entitled to until a decision is rendered on the contestation.

2014, c. 1, a. 775.

776. The bailiff or the court clerk distributes seized income according to the following order of collocation:

(1) execution costs, including the cost of administering an instalment payment agreement and distributing the seized income, if applicable;

(2) support claims, for the difference between the portion of the income seized by reason of the particular nature of the claim and the portion of income that is ordinarily seizable, in proportion to the amount of the claims;

(3) prior claims;

(4) hypothecary claims; and

(5) unsecured claims.

In all cases, the bailiff or the court clerk pays to a support creditor, out of the portion of income that is ordinarily seizable, the amount required to make the total amount distributed to that creditor equal to at least one-half of the sums distributed every month, up to the amount of support due.

However, a spouse's claim based on a marriage or civil union contract cannot be paid until all other claims have been discharged.

When the full amount of a claim has been paid to the creditor, the bailiff or the court clerk notifies a notice of payment to the debtor and the creditor. If the notice is not contested by the creditor within 15 days after the notification, the bailiff or the court clerk may, on request, give an acquittance by certifying on the debtor's copy of the notice of payment that it has not been contested.

2014, c. 1, a. 776.

777. The Minister of Justice may, when required by the situation, determine by order the cases and circumstances in which a court clerk may, in the bailiff's place, administer and distribute seized income, and determine the applicable conditions.

2014, c. 1, a. 777.

AMENDING AND FINAL PROVISIONS

GENERAL AMENDING PROVISIONS

778. In any Act or statutory instrument, the following terminological changes are made, with the necessary modifications:

(1) "recours collectif" in the French text, and "recours" in the French text when it means "recours collectif", are replaced by "action collective" and "action", respectively;

(2) "distress warrant", "writ", "writ of execution", "writ of seizure", "writ of seizure in execution", "writ of seizure in execution of an immovable", "writ of seizure in execution of movable property", "writ of seizure of immovables", "writ of seizure of movable property", "writ of seizure of movable property in execution", and "writ of seizure of property" are replaced by "notice", "notice of execution" or "order", depending on the context, if a substitution is necessary, and if not, they are struck out;

(3) "juridiction" in the French text, when referring to the jurisdiction of a court of justice or an administrative tribunal, is replaced by "compétence";

(4) "extrajudicial costs", "extrajudicial fees", "extra-judicial professional fees", are replaced by "professional fees", and "judicial fees" is struck out;

(5) "juridical day" is replaced by "working day" and "non-juridical day" is replaced by "holiday";

(6) "mandate given in the anticipation of the mandator's incapacity" or the equivalent is replaced by "protection mandate";

(7) "writ of seizure by garnishment" and "writ of attachment" are replaced by "order to seize property in the hands of a third person";

(8) "writ of possession" and "writ in an action of ejectment" are replaced by "eviction order";

(9) "writ of habeas corpus" is replaced by "habeas corpus order";

(10) "certified mail", "certified or registered mail", "registered or certified mail", "registered or certified post", "registered letter", "registered or certified letter", "registered mail", "certified or registered letter" and "recommended or certified mail" are replaced by "registered mail";

(11) any text, whether or not it contains an express reference to the Code of Civil Procedure (chapter C-25), that mentions an action or a recourse under article 33 of the Code of Civil Procedure, an extraordinary recourse or remedy provided for or within the meaning of the Code of Civil Procedure or an extraordinary recourse contemplated, provided or provided for in or provided by articles 834 to 850 of the Code of Civil Procedure is replaced by "application for judicial review under the Code of Civil Procedure (chapter C-25.01)";

(12) "minutes of the determination of the boundaries", "minutes of determination of boundaries", "minutes of boundary determination", "minutes of a boundary determination" are replaced by "minutes of the boundary-marking operations";

(13) "rules of practice" is replaced by "court regulations" or "tribunal regulations" as appropriate;

(14) "sale by judicial authority" and "judicial sale" are replaced by "sale under judicial authority".

2014, c. 1, a. 778.

779. *(Amendment integrated into c. A-32 s. 358; C-23.1, s. 86; C-25.1, aa. 265, 291 and 367; C-26, s. 194; E-20.1, s. 74.4; R-9, s. 28; S-11.011, s. 16.1; S-29.01, s. 244).*

2014, c. 1, a. 779.

780. *(Amendment integrated into c. C-19, ss. 14.1, 468.45.8, 568, 569 and 573.3.4; C-27.1, aa. 19, 614.8, 938.4, 1082 and 1094; C-37.01, s. 118.2; C-37.02, s. 111.2; S-30.01, s. 108.2; T-14, s. 6, V-6.1, ss. 204 and 358).*

2014, c. 1, a. 780.

781. *(Amendment integrated into c. A-6.002, s. 41; B-1.1, s. 146; E-2.2, ss. 37 and 657; E-3.3, s. 573; F-3.1.1, s. 114; R-8.1, s. 18; T-12, s. 86; V-5.01, s. 53).*

2014, c. 1, a. 781.

782. In any Act or statutory instrument, a reference to a provision of the former Code is replaced by a reference to the corresponding provision of the new Code.

2014, c. 1, a. 782.

783. Before updating the Compilation of Québec Laws and Regulations to enter the changes made necessary by the replacement of concepts predating the new Code of Civil Procedure (chapter C-25.01), the Minister of Justice publishes, on the website of the Québec Official Publisher, at least six months before the planned update, a consultation document explaining the nature and scope of the updating operations the Minister plans to carry out. The Minister tables the consultation document in the National Assembly. The Minister subsequently receives any comments submitted and publishes an information note prior to the publication of the update of the compilation, as required by section 4 of the Act respecting the Compilation of Québec Laws and Regulations (chapter R-2.2.0.0.2).

2014, c. 1, a. 783.

SPECIFIC AMENDING PROVISIONS

CIVIL CODE OF QUÉBEC

784. *(Amendment integrated into the Civil Code, a. 234).*

2014, c. 1, a. 784.

785. *(Amendment integrated into the Civil Code, a. 237).*

2014, c. 1, a. 785.

786. *(Amendment integrated into the Civil Code, aa. 568 and 574 — French).*

2014, c. 1, a. 786.

787. *(Amendment integrated into the Civil Code, a. 596.1).*

2014, c. 1, a. 787.

788. *(Amendment integrated into the Civil Code, a. 978).*

2014, c. 1, a. 788.

789. *(Amendment integrated into the Civil Code, a. 1529).*

2014, c. 1, a. 789.

790. *(Amendment integrated into the Civil Code, a. 1605).*

2014, c. 1, a. 790.

791. *(Amendment integrated into the Civil Code, a. 1641).*

2014, c. 1, a. 791.

792. *(Amendment integrated into the Civil Code, a. 1644).*

2014, c. 1, a. 792.

793. *(Amendment integrated into the Civil Code, a. 1758).*

2014, c. 1, a. 793.

794. *(Amendment integrated into the Civil Code, heading of Section IV of Chapter IX of Title II of Book V).*

2014, c. 1, a. 794.

795. *(Amendment integrated into the Civil Code, a. 2166).*

2014, c. 1, a. 795.

796. *(Amendment integrated into the Civil Code, a. 2387).*

2014, c. 1, a. 796.

797. *(Amendment integrated into the Civil Code, a. 2648).*

2014, c. 1, a. 797.

798. *(Amendment integrated into the Civil Code, a. 2718).*

2014, c. 1, a. 798.

799. *(Amendment integrated into the Civil Code, a. 2759).*

2014, c. 1, a. 799.

800. *(Amendment integrated into the Civil Code, a. 2787).*

2014, c. 1, a. 800.

801. *(Amendment integrated into the Civil Code, a. 2791).*

2014, c. 1, a. 801.

802. *(Amendment integrated into the Civil Code, a. 2793).*

2014, c. 1, a. 802.

803. *(Amendment integrated into the Civil Code, a. 2794).*

2014, c. 1, a. 803.

804. *(Amendment integrated into the Civil Code, a. 2892).*

2014, c. 1, a. 804.

805. *(Amendment integrated into the Civil Code, a. 2908).*

2014, c. 1, a. 805.

806. *(Amendment integrated into the Civil Code, a. 2958).*

2014, c. 1, a. 806.

807. *(Amendment integrated into the Civil Code, a. 2996).*

2014, c. 1, a. 807.

808. *(Amendment integrated into the Civil Code, a. 3000).*

2014, c. 1, a. 808.

809. *(Amendment integrated into the Civil Code, a. 3017).*

2014, c. 1, a. 809.

810. *(Amendment integrated into the Civil Code, a. 3069).*

2014, c. 1, a. 810.

INDIVIDUAL AND FAMILY ASSISTANCE ACT

811. *(Amendment integrated into c. A-13.1.1, s. 103.1).*

2014, c. 1, a. 811.

ACT RESPECTING FINANCIAL ASSISTANCE FOR EDUCATION EXPENSES

812. *(Amendment integrated into c. A-13.3, a. 31.0.1).*

2014, c. 1, a. 812.

ACT RESPECTING LEGAL AID AND THE PROVISION OF CERTAIN OTHER LEGAL SERVICES

813. *(Amendment integrated into c. A-14, s. 4.6).*

2014, c. 1, a. 813.

ACT RESPECTING PARENTAL INSURANCE

814. *(Amendment integrated into c. A-29.011, a. 31.1).*

2014, c. 1, a. 814.

ACT RESPECTING THE BARREAU DU QUÉBEC

815. *(Amendment integrated into c. B-1, s. 1).*

2014, c. 1, a. 815.

816. *(Amendment integrated into c. B-1, heading of Division XII).*

2014, c. 1, a. 816.

817. *(Amendment integrated into c. B-1, s. 125).*

2014, c. 1, a. 817.

818. *(Amendment integrated into c. B-1, s. 126).*

2014, c. 1, a. 818.

819. *(Amendment integrated into c. B-1, s. 127.1).*

2014, c. 1, a. 819.

CODE OF PENAL PROCEDURE

820. *(Amendment integrated into c. C-25.1, a. 330).*

2014, c. 1, a. 820.

821. *(Amendment integrated into c. C-25.1, a. 331).*

2014, c. 1, a. 821.

ACT RESPECTING MUNICIPAL COURTS

822. *(Repealed).*

2014, c. 1, a. 822; 2014, c. 10, s. 6.

COURT BAILIFFS ACT

823. *(Amendment integrated into c. H-4.1, s. 13).*

2014, c. 1, a. 823.

SPECIAL PROCEDURE ACT

824. *(Omitted).*

2014, c. 1, a. 824.

YOUTH PROTECTION ACT

825. *(Amendment integrated into c. P-34.1, s. 82).*

2014, c. 1, a. 825.

826. *(Amendment integrated into c. P-34.1, s. 85).*

2014, c. 1, a. 826.

ACT RESPECTING THE CLASS ACTION

827. *(Amendment integrated into c. R-2.1, Title of the Act).*

2014, c. 1, a. 827.

828. *(Amendment integrated into c. R-2.1, s. 20).*

2014, c. 1, a. 828.

COURTS OF JUSTICE ACT

829. *(Amendment integrated into c. T-16, s. 12).*

2014, c. 1, a. 829.

830. *(Amendment integrated into c. T-16, s. 146).*

2014, c. 1, a. 830.

831. *(Amendment integrated into c. T-16, s. 147).*

2014, c. 1, a. 831.

832. *(Amendment integrated into c. B-1, r. 22).*

2014, c. 1, a. 832.

FINAL PROVISIONS

833. The new Code of Civil Procedure (chapter C-25.01) replaces the former Code of Civil Procedure (chapter C-25).

The Code applies as soon as it comes into force. However,

(1) in first instance, originating applications that have already been filed continue to be governed by the former Code solely as regards agreements concerning the conduct of the proceeding and the presentation of the application before the court and time limits;

(2) cases that would be under the jurisdiction of a different court continue before the court already seized of the matter and those that would be under the jurisdiction of the Small Claims Division of the Court of Québec continue before the division of the Court of Québec already seized of the matter;

(3) in appeal, the time limits for preparing the appeal record continue to apply to cases already in appeal;

(4) if already under way, the execution of a judgment, of a decision or of a juridical act that has the same force and effect as a judgment continues in accordance with the former Code, except in the case of execution proceedings already under way in accordance with the rules governing voluntary deposit;

(5) for the purposes of Book VIII, until an order of the Minister of Justice is published in the *Gazette officielle du Québec* indicating that the sales register is operational, the publication of notices in the sales register is to be as follows:

(a) the notice preceding the sale, required by article 748, is to be published in accordance with the rules established by the new Code for notification by public notice and to be notified to the persons mentioned in the second paragraph of article 749;

(b) the notice indicating that the sale will not take place or is suspended, if such is the case, is to be notified to the persons to whom the notice of sale was notified;

(c) the notice following the sale, required by article 757, is to be filed at the office of the court where the notice of execution is filed;

(d) a notice of sale published before the date set in the ministerial order is not required to be published in the sales register; the rules prescribed in subparagraphs *b* and *c* apply in such a case, with the necessary modifications.

2014, c. 1, a. 833.

834. The Government may, by a regulation made before 1 January 2016, adopt any other transitional or consequential provision or any measure that is necessary to facilitate the carrying out of Book VIII of the new Code of Civil Procedure (chapter C-25.01).

2014, c. 1, a. 834.

835. In any Act or statutory instrument, summoning a person by a summons, subpoena or writ or by any other means is equivalent to calling a person to attend at court by a subpoena and a pleading cannot be invalidated for the sole reason that it is identified by any of these other terms rather than as a subpoena or, conversely, as a subpoena rather than by any of these other terms.

In addition, in any Act or statutory instrument, except where the law requires that service be made by bailiff, the service of a pleading is equivalent to its notification and, subject to the same exception, the notification of a pleading cannot be invalidated for the sole reason that it is referred to as service nor can the service of a pleading be invalidated for the sole reason that it is referred to as notification.

2014, c. 1, a. 835.

836. *(Omitted).*

2014, c. 1, a. 836.

SCHEDULE I

(*Article 494*)

CONVENTION ON THE SERVICE ABROAD OF JUDICIAL AND EXTRAJUDICIAL DOCUMENTS IN CIVIL OR COMMERCIAL MATTERS

(Concluded 15 November 1965)

The States signatory to the present Convention,

Desiring to create appropriate means to ensure that judicial and extrajudicial documents to be served abroad shall be brought to the notice of the addressee in sufficient time,

Desiring to improve the organisation of mutual judicial assistance for that purpose by simplifying and expediting the procedure,

Have resolved to conclude a Convention to this effect and have agreed upon the following provisions:

Article 1

The present Convention shall apply in all cases, in civil or commercial matters, where there is occasion to transmit a judicial or extrajudicial document for service abroad.

This Convention shall not apply where the address of the person to be served with the document is not known.

CHAPTER I – JUDICIAL DOCUMENTS

Article 2

Each Contracting State shall designate a Central Authority which will undertake to receive requests for service coming from other Contracting States and to proceed in conformity with the provisions of Articles 3 to 6.

Each State shall organise the Central Authority in conformity with its own law.

Article 3

The authority or judicial officer competent under the law of the State in which the documents originate shall forward to the Central Authority of the State addressed a request conforming to the model annexed to the present Convention, without any requirement of legalisation or other equivalent formality.

The document to be served or a copy thereof shall be annexed to the request. The request and the document shall both be furnished in duplicate.

Article 4

If the Central Authority considers that the request does not comply with the provisions of the present Convention it shall promptly inform the applicant and specify its objections to the request.

Article 5

The Central Authority of the State addressed shall itself serve the document or shall arrange to have it served by an appropriate agency, either –

a) by a method prescribed by its internal law for the service of documents in domestic actions upon persons who are within its territory, or

b) by a particular method requested by the applicant, unless such a method is incompatible with the law of the State addressed.

Subject to sub-paragraph *(b)* of the first paragraph of this Article, the document may always be served by delivery to an addressee who accepts it voluntarily.

If the document is to be served under the first paragraph above, the Central Authority may require the document to be written in, or translated into, the official language or one of the official languages of the State addressed.

That part of the request, in the form attached to the present Convention, which contains a summary of the document to be served, shall be served with the document.

Article 6

The Central Authority of the State addressed or any authority which it may have designated for that purpose, shall complete a certificate in the form of the model annexed to the present Convention.

The certificate shall state that the document has been served and shall include the method, the place and the date of service and the person to whom the document was delivered. If the document has not been served, the certificate shall set out the reasons which have prevented service.

The applicant may require that a certificate not completed by a Central Authority or by a judicial authority shall be countersigned by one of these authorities.

The certificate shall be forwarded directly to the applicant.

Article 7

The standard terms in the model annexed to the present Convention shall in all cases be written either in French or in English. They may also be written in the official language, or in one of the official languages, of the State in which the documents originate.

The corresponding blanks shall be completed either in the language of the State addressed or in French or in English.

Article 8

Each Contracting State shall be free to effect service of judicial documents upon persons abroad, without application of any compulsion, directly through its diplomatic or consular agents.

Any State may declare that it is opposed to such service within its territory, unless the document is to be served upon a national of the State in which the documents originate.

Article 9

Each Contracting State shall be free, in addition, to use consular channels to forward documents, for the purpose of service, to those authorities of another Contracting State which are designated by the latter for this purpose.

Each Contracting State may, if exceptional circumstances so require, use diplomatic channels for the same purpose.

Article 10

Provided the State of destination does not object, the present Convention shall not interfere with –

a) the freedom to send judicial documents, by postal channels, directly to persons abroad,

b) the freedom of judicial officers, officials or other competent persons of the State of origin to effect service of judicial documents directly through the judicial officers, officials or other competent persons of the State of destination,

c) the freedom of any person interested in a judicial proceeding to effect service of judicial documents directly through the judicial officers, officials or other competent persons of the State of destination.

Article 11

The present Convention shall not prevent two or more Contracting States from agreeing to permit, for the purpose of service of judicial documents, channels of transmission other than those provided for in the preceding Articles and, in particular, direct communication between their respective authorities.

Article 12

The service of judicial documents coming from a Contracting State shall not give rise to any payment or reimbursement of taxes or costs for the services rendered by the State addressed.

The applicant shall pay or reimburse the costs occasioned by –

a) the employment of a judicial officer or of a person competent under the law of the State of destination,

b) the use of a particular method of service.

Article 13

Where a request for service complies with the terms of the present Convention, the State addressed may refuse to comply therewith only if it deems that compliance would infringe its sovereignty or security.

It may not refuse to comply solely on the ground that, under its internal law, it claims exclusive jurisdiction over the subject-matter of the action or that its internal law would not permit the action upon which the application is based.

The Central Authority shall, in case of refusal, promptly inform the applicant and state the reasons for the refusal.

Article 14

Difficulties which may arise in connection with the transmission of judicial documents for service shall be settled through diplomatic channels.

Article 15

Where a writ of summons or an equivalent document had to be transmitted abroad for the purpose of service, under the provisions of the present Convention, and the defendant has not appeared, judgment shall not be given until it is established that –

a) the document was served by a method prescribed by the internal law of the State addressed for the service of documents in domestic actions upon persons who are within its territory, or

b) the document was actually delivered to the defendant or to his residence by another method provided for by this Convention, and that in either of these cases the service or the delivery was effected in sufficient time to enable the defendant to defend.

Each Contracting State shall be free to declare that the judge, notwithstanding the provisions of the first paragraph of this Article, may give judgment even if no certificate of service or delivery has been received, if all the following conditions are fulfilled –

a) the document was transmitted by one of the methods provided for in this Convention,

b) a period of time of not less than six months, considered adequate by the judge in the particular case, has elapsed since the date of the transmission of the document,

c) no certificate of any kind has been received, even though every reasonable effort has been made to obtain it through the competent authorities of the State addressed.

Notwithstanding the provisions of the preceding paragraphs the judge may order, in case of urgency, any provisional or protective measures.

Article 16

When a writ of summons or an equivalent document had to be transmitted abroad for the purpose of service, under the provisions of the present Convention, and a judgment has been entered against a defendant who has not appeared, the judge shall have the power to relieve the defendant from the effects of the expiration of the time for appeal from the judgment if the following conditions are fulfilled –

a) the defendant, without any fault on his part, did not have knowledge of the document in sufficient time to defend, or knowledge of the judgment in sufficient time to appeal, and

b) the defendant has disclosed a *prima facie* defence to the action on the merits.

An application for relief may be filed only within a reasonable time after the defendant has knowledge of the judgment.

Each Contracting State may declare that the application will not be entertained if it is filed after the expiration of a time to be stated in the declaration, but which shall in no case be less than one year following the date of the judgment.

This Article shall not apply to judgments concerning status or capacity of persons.

CHAPTER II – EXTRAJUDICIAL DOCUMENTS

Article 17

Extrajudicial documents emanating from authorities and judicial officers of a Contracting State may be transmitted for the purpose of service in another Contracting State by the methods and under the provisions of the present Convention.

CHAPTER III – GENERAL CLAUSES

Article 18

Each Contracting State may designate other authorities in addition to the Central Authority and shall determine the extent of their competence.

The applicant shall, however, in all cases, have the right to address a request directly to the Central Authority.

Federal States shall be free to designate more than one Central Authority.

Article 19

To the extent that the internal law of a Contracting State permits methods of transmission, other than those provided for in the preceding Articles, of documents coming from abroad, for service within its territory, the present Convention shall not affect such provisions.

Article 20

The present Convention shall not prevent an agreement between any two or more Contracting States to dispense with –

a) the necessity for duplicate copies of transmitted documents as required by the second paragraph of Article 3,

b) the language requirements of the third paragraph of Article 5 and Article 7,

c) the provisions of the fourth paragraph of Article 5,

d) the provisions of the second paragraph of Article 12.

Article 21

Each Contracting State shall, at the time of the deposit of its instrument of ratification or accession, or at a later date, inform the Ministry of Foreign Affairs of the Netherlands of the following –

a) the designation of authorities, pursuant to Articles 2 and 18,

b) the designation of the authority competent to complete the certificate pursuant to Article 6,

c) the designation of the authority competent to receive documents transmitted by consular channels, pursuant to Article 9.

Each Contracting State shall similarly inform the Ministry, where appropriate, of –

a) opposition to the use of methods of transmission pursuant to Articles 8 and 10,

b) declarations pursuant to the second paragraph of Article 15 and the third paragraph of Article 16,

c) all modifications of the above designations, oppositions and declarations.

Article 22

Where Parties to the present Convention are also Parties to one or both of the Conventions on civil procedure signed at The Hague on 17th July 1905, and on 1st March 1954, this Convention shall replace as between them Articles 1 to 7 of the earlier Conventions.

Article 23

The present Convention shall not affect the application of Article 23 of the Convention on civil procedure signed at The Hague on 17th July 1905, or of Article 24 of the Convention on civil procedure signed at The Hague on 1st March 1954.

These Articles shall, however, apply only if methods of communication, identical to those provided for in these Conventions, are used.

Article 24

Supplementary agreements between Parties to the Conventions of 1905 and 1954 shall be considered as equally applicable to the present Convention, unless the Parties have otherwise agreed.

Article 25

Without prejudice to the provisions of Articles 22 and 24, the present Convention shall not derogate from Conventions containing provisions on the matters governed by this Convention to which the Contracting States are, or shall become, Parties.

Article 26

The present Convention shall be open for signature by the States represented at the Tenth Session of the Hague Conference on Private International Law.

It shall be ratified, and the instruments of ratification shall be deposited with the Ministry of Foreign Affairs of the Netherlands.

Article 27

The present Convention shall enter into force on the sixtieth day after the deposit of the third instrument of ratification referred to in the second paragraph of Article 26.

The Convention shall enter into force for each signatory State which ratifies subsequently on the sixtieth day after the deposit of its instrument of ratification.

Article 28

Any State not represented at the Tenth Session of the Hague Conference on Private International Law may accede to the present Convention after it has entered into force in accordance with the first paragraph of Article 27. The instrument of accession shall be deposited with the Ministry of Foreign Affairs of the Netherlands.

The Convention shall enter into force for such a State in the absence of any objection from a State, which has ratified the Convention before such deposit, notified to the Ministry of Foreign Affairs of the Netherlands within a period of six months after the date on which the said Ministry has notified it of such accession.

In the absence of any such objection, the Convention shall enter into force for the acceding State on the first day of the month following the expiration of the last of the periods referred to in the preceding paragraph.

Article 29

Any State may, at the time of signature, ratification or accession, declare that the present Convention shall extend to all the territories for the international relations of which it is responsible, or to one or more of them. Such a declaration shall take effect on the date of entry into force of the Convention for the State concerned.

At any time thereafter, such extensions shall be notified to the Ministry of Foreign Affairs of the Netherlands.

The Convention shall enter into force for the territories mentioned in such an extension on the sixtieth day after the notification referred to in the preceding paragraph.

Article 30

The present Convention shall remain in force for five years from the date of its entry into force in accordance with the first paragraph of Article 27, even for States which have ratified it or acceded to it subsequently.

If there has been no denunciation, it shall be renewed tacitly every five years.

Any denunciation shall be notified to the Ministry of Foreign Affairs of the Netherlands at least six months before the end of the five year period.

It may be limited to certain of the territories to which the Convention applies.

The denunciation shall have effect only as regards the State which has notified it. The Convention shall remain in force for the other Contracting States.

Article 31

The Ministry of Foreign Affairs of the Netherlands shall give notice to the States referred to in Article 26, and to the States which have acceded in accordance with Article 28, of the following –

a) the signatures and ratifications referred to in Article 26;

b) the date on which the present Convention enters into force in accordance with the first paragraph of Article 27;

c) the accessions referred to in Article 28 and the dates on which they take effect;

d) the extensions referred to in Article 29 and the dates on which they take effect;

e) the designations, oppositions and declarations referred to in Article 21;

f) the denunciations referred to in the third paragraph of Article 30.

In witness whereof the undersigned, being duly authorised thereto, have signed the present Convention.

Done at The Hague, on the 15th day of November, 1965, in the English and French languages, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Government of the Netherlands, and of which a certified copy shall be sent, through the diplomatic channel, to each of the States represented at the Tenth Session of the Hague Conference on Private International Law.

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2014, c. 1, Schedule I.