

EXPLANATORY NOTES

APPLICATION IN THE COURSE OF A PROCEEDING – PRELIMINARY EXCEPTIONS AND INCIDENTAL APPLICATIONS

(art. 535.5 C.C.P.)

SIMPLIFIED PROCEDURE (Jurisdiction 22)

(SJ-1275A)

The “Application in the course of a proceeding – Preliminary exceptions and incidental applications” can be used to make an application before the Court of Québec’s Civil Division in respect of preliminary exceptions and incidental applications, such as a declinatory exception or an application to amend a pleading, under article 535.5 of the *Code of Civil Procedure* (C.C.P.).

In accordance with the Case Management Directive governed by special simplified rules, this form must be filed together with the “Notice of disclosure of preliminary exceptions and incidental applications” (SJ-1274A) available at www.justice.gouv.qc.ca/centre-de-documentation.

NOTE: This form may only be used to present an application in respect of preliminary exceptions and incidental applications to the Court of Québec under the special simplified rules for the recovery of certain claims (articles 535.1 and following of the C.C.P.).

TYPES OF FORMS

- Dynamic PDF:

After filling it out, you can print it on letter size paper, 21.59 × 27.94 cm (8.5 × 11 inches).

- Paper:

If you complete the form by hand, please write legibly in block letters.

PROCEDURE

Once the form is completed, keep a copy for your files.

Your form must be sworn before a commissioner for oaths, a clerk or any other person authorized to administer the oath.

The application and the “Notice of disclosure of preliminary exceptions and incidental applications” (SJ-1274A) must be notified to the relevant party’s lawyer or, if they are not represented, to the relevant party. Notification can be done by any appropriate method proving that the document was remitted to its recipient (for example, by registered mail or bailiff).

FILING AT THE COURT OFFICE

You must then forward the application, together with the “Notice of disclosure of preliminary exceptions and incidental applications” form (SJ-1274A) and proof of notification, to the office of the appropriate court within 45 days of notification of the summons or as soon as possible if the preliminary exceptions and incidental applications could not be presented within the 45-day period.

To do this, you may use the Digital Court Office of Québec (GNJQ) at Québec ca.justice-et-etat-civil/systeme-judiciaire/processus-judiciaire/services-judiciaires-numeriques.

This form includes a notice asking the opposing party to submit its written comments within 10 days of the notice. After these 10 days, the clerk will submit the application and comments to the court, which will render a judgment on the face of the record unless it deems that a hearing is necessary.

For more information or to get contact information for all courthouses in the province of Québec, visit www.justice.gouv.qc.ca/nous-joindre.

APPLICATION IN THE COURSE OF A PROCEEDING – PRELIMINARY EXCEPTIONS AND INCIDENTAL APPLICATIONS

GENERAL INFORMATION

This form can be obtained from the civil office of the courthouse and at www.justice.gouv.qc.ca/centre-de-documentation.

This form may only be used to present an application in the course of a proceeding to the Court of Québec under the special simplified rules for the recovery of certain claims (articles 535.1 and following of the *Code of Civil Procedure*).

HOW TO FILL OUT THE FORM

Provide all the information requested in every required section.

The numbers of the explanatory notes refer to the corresponding sections of the form.

HEADER

- 1 Enter the name of the district, locality and court as well as the file number.

IDENTIFICATION OF THE PARTIES

- 2 Enter the given name, surname and address of every party, as shown in the proceedings already filed in the record of the court.

TITLE OF APPLICATION

- 3 Specify the nature of the preliminary exception or incidental application you are presenting to the court (short title), for example: Application to amend a pleading.

CONTENT OF APPLICATION

- 4 In paragraph 1, enter the object (the purpose) of your application. In paragraph 2, enter the grounds justifying your application; for example, the facts or legal arguments you consider relevant to submit to the court.

CONCLUSIONS

- 5 State the conclusions you are asking of the court. For example: ORDER that the case be transferred to another court, ORDER a party to provide certain documents.

Enter the place and date, and sign the application. Enter your given name and surname in the appropriate spaces and indicate in what capacity (as which party) you are signing.

SWORN STATEMENT

- 6 Enter your given name, surname and full address. Sign the statement in the presence of a person authorized to administer oaths (for example: clerk of the court, a commissioner for oaths).

NOTICE TO THE OPPOSING PARTY

- 7 This notice informs the opposing party that it has 10 days to submit its written comments to the court. Enter the given name, surname and address of the party or parties to whom you are giving the notice.

REVERSE

- 8 Enter the same information as in the header of this form: your record number, the court you are addressing and the judicial district. Enter your name and address at the bottom of the reverse side.

1 CANADA
PROVINCE OF QUÉBEC
District: _____
Locality: _____
File No.: _____

COURT OF QUÉBEC
Civil Division

2

Plaintiff

v.

Defendant

and

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**APPLICATION IN THE COURSE OF A PROCEEDING – PRELIMINARY EXCEPTIONS
AND INCIDENTAL APPLICATIONS
(art. 535.5 C.C.P.)**

The _____ submits the following to the court:

4

1. It _____ (describe the object of the preliminary exception or incidental application): _____

_____;

2. In support of the application, it invokes the following grounds: _____

_____;

THEREFORE, THE _____ ASKS THE COURT TO:

5

ALLOW the application;

_____;

At _____, on _____

SWORN STATEMENT

I, the undersigned, _____,
domiciled and residing at _____,
declare under oath that:

1. I am the _____ or their representative.
2. All the facts alleged herein are true.

And I have signed

Signature

Sworn before me

At _____, on _____

Clerk / Commissioner for oaths

NOTICE TO THE OPPOSING PARTY

To: _____

You may submit your written comments regarding this application in the course of a proceeding within **10 days** of this notice. To do this, you must notify your written comments to the other parties and file them with the court along with proof of notification.

After these 10 days, the application, along with your written comments, if any, will be presented to the court, which may then render a judgment on the face of the record, without a hearing. The court may also subsequently call the parties to a hearing if it deems one necessary.

At _____, on _____

8

File No.:

COURT OF QUÉBEC
Civil Division

District :
Locality :

Plaintiff

v.

Defendant

and

**APPLICATION IN THE COURSE OF A
PROCEEDING – PRELIMINARY
EXCEPTIONS AND INCIDENTAL
APPLICATIONS**

Plaintiff :

Address :

Phone : home
 work

Email :