

EXPLANATORY NOTES

OPPOSITION TO SEIZURE OR SALE (SJ-857-01A)

The “Opposition to Seizure or Sale” form is used if you want to oppose the seizure or proposed sale of property in a case under the jurisdiction of the Court of Québec, Civil Division (Small Claims Division).

IMPORTANT: Any application, contestation or opposition with respect to execution of a judgment must be presented in the district of the court that rendered the judgment giving rise to the initial notice of execution. For further information, you may contact the executing bailiff or the clerk.

TYPES OF FORMS

- Dynamic PDF:

After completing the form, you can print it on letter-sized paper, i.e. 8.5 inches by 11 inches (215.9 mm by 279.4 mm).

- Paper:

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

PROCEDURE

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

You will need to contact the Small Claims Division office to obtain information to complete the “Notice of Hearing” section of the form.

FILING AT THE COURT OFFICE

You must then submit the form without delay to the Small Claims Division office. To do this, you may use the Digital Court Office of Québec (GNJQ), which is accessible via the website of the Ministère de la Justice at www.justice.gouv.qc.ca.

The clerk will immediately notify the other parties involved and call them to a hearing.

Court costs are payable for filing the opposition. For further information on [court costs](#) and the contact information for all [courthouses](#) in the province of Québec, consult the website of the Ministère de la Justice.

► How to complete the “Opposition to Seizure or Sale” form

- Provide all the information requested in all the required sections.
- The numbers of the explanatory notes refer to the corresponding sections of the form.

HEADING

1 To complete the heading of the form:

- As regards the district, locality, file number and identity of the plaintiff and defendant: enter in the appropriate spaces, the information given in the heading of the judgment, the notice of execution or the bailiff’s minutes of seizure.
- As regards the identity of the parties: enter in the appropriate spaces, the surnames and given names of the parties in the case. For the opposing party: enter your name and address if you are not already a party to the case. This space is reserved for third parties opposing the seizure or sale. For all other cases, do not enter anything in this field. Enter the name of the executing bailiff.

INFORMATION CONCERNING THE SEIZURE OR SALE

2 In the appropriate spaces, enter:

- the date of the day on which the seizure was carried out (this date is shown in the bailiff’s minutes of seizure);
OR
- the date set for the sale;
AND
- in what capacity you are acting (for example: defendant, opposing party, etc.).

GROUND FOR OPPOSING THE SEIZURE OR SALE

- 3** Check the box that corresponds to your situation, i.e. whether you are contesting “the seizure” or “the sale”, and whether you are seeking to have it cancelled “in whole” or “in part”. Please also check the box that corresponds to your ground for opposition and specify in the appropriate space, among other things, the ground invoked, the property involved in the opposition, the encumbrances, the nature of the relation between the opposing party and the property seized, etc.
- 4** Check this box if the purpose of your opposition is solely to reduce the debt amount. If that is your sole ground for opposing, the previous conclusion concerning cancellation of the seizure or sale need not be completed.
- 5** Check this box if your opposition is partial (for example, you seek to have some property exempted from the seizure or to reduce the amount of the debt claimed, etc.) and you want the Court to suspend execution of the judgment with respect to all the property seized or for the entire amount claimed by the creditor.

CONCLUSIONS SOUGHT

- 6** Enter in the appropriate space in what capacity you are acting (for example: defendant, opposing party, etc.).
- 7** Check and complete the conclusions that apply to your situation, taking care to enter the required information.

BOTTOM OF PAGE

8 In the appropriate space, enter:

- the place and date of signing;
- your signature;
- in what capacity you are acting (for example: defendant, opposing party, etc.).

1

_____ _____ _____ Plaintiff	_____ _____ _____ Defendant
_____ _____ _____ Executing bailiff	_____ _____ _____ Opposing party

OPPOSITION TO SEIZURE OR SALE
(a. 566, 735, Code of Civil Procedure)

2

The _____ opposes ☐ the seizure carried out on _____ and ☐ the sale set for _____.

3

The _____ requests the cancellation ☐ in whole or ☐ in part of the seizure or the sale, on the following ground(s):

- ☐ the seized property described hereinafter belongs to _____;
- ☐ the property is exempt from seizure;
- ☐ the debt is extinguished;
- ☐ the proposed sale price is not commercially reasonable;
- ☐ the seizure proceedings are affected by an irregularity resulting in serious prejudice;
- ☐ the _____ party claims the seized property;
- ☐ an encumbrance against the property will be discharged by the sale, and the proposed sale is advertised without any mention of the encumbrance;
- ☐ the interests of the opposing party are adversely affected by reason of the seized property being advertised as being subject to an encumbrance, and no sufficient security is given to guarantee that the property will be sold for a price that will ensure payment of the opposing party's claim;

Please specify (for example: property under opposition, encumbrances, nature of the relation between the opposing party and the seized property, etc.):

4

The _____ declares that only an amount of \$ _____ is owing to the ☐ plaintiff ☐ defendant on the following grounds:

5 ☐ The _____ is asking for suspension of the execution of the judgment ☐ for all the property seized ☐ for the total amount claimed by the creditor.

6 **ON THESE GROUNDS, THE** _____ **IS ASKING THE COURT TO:**

CANCEL ☐ in whole ☐ in part the seizure of the property described hereinafter, carried out on _____ and ☐ the sale set for _____ ;

7 _____

☐ **DECLARE** _____ sole owner of the property;

☐ **DECLARE** the ☐ plaintiff ☐ defendant debt extinguished;

☐ **GRANT** release of seizure to the ☐ defendant ☐ plaintiff ☐ opposing party with regard to the property mentioned above;

☐ **DECLARE** that only an amount of \$ _____ is owing to ☐ plaintiff ☐ defendant;

☐ **SUSPEND** execution of the judgment for ☐ all the property seized ☐ the total amount claimed by the creditor.

☐ _____

THE WHOLE with legal costs.

8 At _____ , on _____

☐ Plaintiff ☐ Defendant
☐ Opposing party

NOTICE OF HEARING

TO: _____
Plaintiff

TO: _____
Defendant

TO: _____
Executing bailiff

TO: _____
Opposing party

Take notice that this application was filed in the present case.

Consequently, in accordance with article 566 of the Code of Civil Procedure, you are called to a hearing of this application to be held at the _____ courthouse, located at _____, on _____, at _____ a.m./p.m., room _____.

For the purposes of the hearing, bring the documents you see fit to submit to the Court.

At _____, on _____

Clerk