

## EXPLANATORY NOTES

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

The form “Opposition to Seizure or Sale” 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).

**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.

For further information, as well as the contact information for courthouses in the province of Québec, consult the [list of courthouses](#) on the website of the ministère de la Justice.

### TYPES OF FORMS

This form is available in dynamic PDF format, meaning the form can be downloaded from [www.justice.gouv.qc.ca](http://www.justice.gouv.qc.ca) and completed directly on screen.

- Dynamic PDF:

After completing the form, you must print it on letter-sized paper, i.e. 8.5 inches by 11 inches (215.9 mm by 279.4 mm). Be sure to set your printer to this paper size.

- 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 must then send the form without delay to the clerk, who will immediately notify the other parties involved and call them to a hearing.

Legal costs are payable on filing your opposition. To find out what the costs are, consult the website of the ministère de la Justice, at [www.justice.gouv.qc.ca](http://www.justice.gouv.qc.ca), or contact the clerk of the Small Claims Division.

## ► 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

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**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

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**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

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- 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

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- 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

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**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.).

<b>1</b>	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____
	Plaintiff	Defendant
	and	
	_____	_____
	_____	_____
	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