

Cost of a civil suit

Unless the judge decides otherwise, each party must pay its own lawyers' fees, whatever the outcome of the case. The other costs (court stenographer, court bailiff, witnesses, expert witnesses, court fees) are generally claimed by the winning party, if the judgment awards costs, by sending a bill of costs to the losing party. Notification is when a copy of the bill of costs is served on the losing party.

It is important to note that many disputes are settled out of court, in particular following mediation or a settlement conference. If the amount claimed is small and the lawyers' fees are likely to be quite high, it may be a good idea for the plaintiff to reduce his or her claim to \$15,000 so that it can be filed in the Small Claims Division of the Court of Québec. Except in some exceptional situations, neither party may be represented in the Small Claims Division by a lawyer.

People who are eligible and who file an application for legal aid may receive assistance, either free or charge or on payment of a contribution, from the legal aid office nearest to their home.

Contact information

Commission des services juridiques

(legal aid offices)
Phone: 514 873-3562
Website: www.csj.qc.ca

For more information

The information summarized in this document was valid at the time of printing. For more information, go to www.justice.gouv.qc.ca or contact:

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CIVIL SUITS



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Civil law governs the relationships between individuals. If you need to assert your rights against a person or business, you can apply to a civil court to settle

- a claim concerning property, such as
 - a financial debt;
 - a contract of sale for a house;
- a claim for bodily injury, such as
 - the injury sustained after slipping on a sidewalk;
 - a disability caused by a medical error;
- a question of family law, such as
 - divorce;
 - support payments or child custody.

Parties in a civil suit

In a civil suit, the plaintiff is the person who has instituted proceedings against another person, the defendant, in order to assert a right. The defendant sometimes files a counter-claim against the plaintiff. In addition, third parties may be impleaded; in other words, they may become involved in the case, either voluntarily or involuntarily.

Deadlines

Depending on the nature of the claim, you have from two weeks to ten years to institute proceedings. Once this deadline has passed, your claim is prescribed and the case cannot be heard by a court.

Out-of-court settlements

The Court of Québec and the Superior Court offer individuals and businesses involved in a civil suit an opportunity to take part in a settlement conference. The settlement conference is chaired by a judge and designed to help the parties communicate, negotiate, define their interests, assess their positions and explore mutually acceptable solutions. It takes place behind closed doors, and is free of charge and informal.

Courts having jurisdiction in civil matters

In civil matters, the courts of first instance (which hear cases for the first time) are as follows:

- the Civil Division, which includes the Small Claims Division, and the Youth Division of the Court of Québec;
- the Superior Court of Québec.

Various criteria are used to determine which court will hear your case, including the amount of money involved. If your claim:

- is for \$15,000 or less, it will be heard by the Small Claims Division of the Court of Québec, as long as the plaintiff is an individual or a legal person, partnership or association with no more than 10 employees during the 12 months prior to the case;
- is for \$15,000.01 to \$84,999.99, it will be heard by the Civil Division of the Court of Québec;
- is for \$85,000 or more, it will be heard by the Superior Court.

In addition to the amount of the claim, other aspects are also taken into account, such as:

- the status of the plaintiff: for example, if the plaintiff is part of a class action suit, the case will be heard by the Superior Court, whatever the amount of the claim;
- the type of dispute: for example, a question relating to family law, such as the amount of a support payment, will be heard by the Superior Court, and a question relating to the payment of municipal or school taxes will be heard by the Civil Division of the Court of Québec.

Appeal courts

An appeal court reviews the decisions made by a lower court. The judgments of the Court of Québec in civil matters and the judgments of the Superior Court can be

appealed to the Québec Court of Appeal. The judgments of the Court of Appeal must be appealed to the Supreme Court of Canada.

A judgment by the Small Claims Division cannot be appealed.

Steps in a civil suit

The case begins with an originating application, which sets out the facts on which the action is based and the conclusions sought. It is accompanied by a summons which, among other things, indicates the options available to the defendant, along with the time limit for answering the originating application. The defendant generally has 15 days after receiving these documents to file a document called an answer with the court, which indicates which option the defendant has chosen. If the defendant fails to file an answer, a judgment by default may be rendered against the defendant, who will then have no opportunity to present a defence.

After filing your originating application at the court, if you are the plaintiff, or your answer, if you are the defendant, you or your lawyer must cooperate with the opposing party to settle the dispute or draw up the case protocol.

During the hearing, each party must produce documents or testimony to support its version of the facts. Next, each party makes an address to the judge, in other words an argument in which the party, or the party's lawyer, summarizes the case and the conclusions sought. The hearing for a civil case is public, except cases in first instance in the field of family law.

The judge may render judgment at the end of the hearing, or take the case under advisement, in which case the parties will receive notice as soon as judgment is rendered.