

Code of Civil Procedure
(C-25.01)

CONCERNING the model pleadings and other documents established by the Minister of Justice pursuant to articles 146, 271, 497 and 681 of the Code of Civil Procedure (chapter C-25.01)

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THE MINISTER OF JUSTICE,

CONSIDERING article 146 of the Code of Civil Procedure (chapter C-25.01), which provides that the summons attached to a judicial application must be in keeping with the model established by the Minister of Justice;

CONSIDERING article 271 of the Code of Civil Procedure, which provides that a subpoena calling a witness to attend at court must be in keeping with the model established by the Minister of Justice;

CONSIDERING the first paragraph of article 681 of the Code of Civil Procedure, which provides that the forced execution of a judgment begins by the filing with the court office of a notice of execution in keeping with the model established by the Minister of Justice;

CONSIDERING that such models are provided for in the Model pleadings and other documents established by the Minister of Justice pursuant to

articles 136, 146, 235, 271, 393, 546 and 681 of the Code of Civil Procedure (chapter C-25.01, r. 2);

CONSIDERING article 497 of the Code of Civil Procedure as amended by section 61 of chapter 12 of the statutes of 2020, which provides that the certificate issued by the court for the subpoena calling a witness resident in another province or in a territory of Canada to attend at court must be in keeping with the model established by the Minister of Justice;

CONSIDERING THAT it is expedient to amend the models established pursuant to articles 141, 271 and 681 of the Code of Civil Procedure in order to clarify them;

CONSIDERING THAT it is expedient to establish a model certificate issued by the court for the subpoena calling a witness resident in another province or in a territory of Canada to attend at court in order to enable implementation of the amendments to articles 72, 497 and 498 of the Code of Civil Procedure made by, respectively, sections 59, 61 and 62 of chapter 12 of the statutes of 2020, as well as the amendment to article 35.1 of the Code of Civil Procedure (chapter C-25.1) made by section 12 of chapter 12 of the statutes of 2020;

ORDERS AS FOLLOWS:

THAT the title of the Model pleadings and other documents established by the Minister of Justice pursuant to articles 136, 146, 235, 271, 393, 546 and 681 of the Code of Civil Procedure (chapter C-25.01, r. 2) be amended:

(1) by the deletion of “by the Minister of Justice”;

(2) by the insertion, after “393,”, of “497,”;

THAT section 1 of those models be amended:

(1) by the addition, after the sixth dash, of the following:

“— Certificate issued by the court for the subpoena calling a witness resident in another province or in a territory of Canada to attend at court (article 497, Code of Civil Procedure). **(Schedule 6.1)**”;

(2) by the replacement, in the eleventh dash, of “[articles 681 and 682, Code of Civil Procedure, section 103.1, Individual and Family Assistance Act (chapter A-13.1.1), section 31.0.1, Act respecting financial assistance for education expenses (chapter A-13.3), section 31.1, Act respecting parental insurance (chapter A-29.011)]” by “(articles 681 and 682, Code of Civil Procedure)”;

THAT the model summons provided for in Schedule 2 to those models be replaced by the model established by Schedule I to this Order;

THAT the model subpoena provided for in Schedule 4 to those models be replaced by the model established by Schedule II to this Order;

THAT those models be amended by the insertion, after Schedule 6, of Schedule 6.1 provided for in Schedule III to this Order, which establishes a model certificate issued by the court for the subpoena calling a witness resident in another province or in a territory of Canada to attend at court;

THAT the model notice of execution drawn up by the collector provided for in Schedule 10 to those models be replaced by the model established by Schedule IV to this Order;

THAT the model notice of execution drawn up under a specific law provided for in Schedule 11 to those models be replaced by the model established by Schedule V to this Order;

THAT this Order take effect on 1 January 2021.

13/12/2020

Simon Jolin-Barrette,



Minister of Justice

Schedule I

MODEL ESTABLISHED BY THE MINISTER OF JUSTICE

SUMMONS
(articles 145 and following C.C.P.)

Filing of a judicial application

Take notice that the plaintiff has filed this originating application in the office of the court of _____ in the judicial district of _____.

Exhibits supporting the application

In support of the originating application, the plaintiff intends to use the following exhibits:

Defendant's answer

You must answer the application in writing, personally or through a lawyer, at the courthouse of _____ situated at _____ within 15 days of service of this application or, if you have no domicile, residence or establishment in Québec, within 30 days. The answer must be notified to the plaintiff's lawyer or, if the plaintiff is not represented, to the plaintiff.

Failure to answer

If you fail to answer within the time limit of 15 or 30 days, as applicable, a default judgement may be rendered against you without further notice and you may, according to the circumstances, be required to pay the legal costs.

Content of answer

In your answer, you must state your intention to:

- negotiate a settlement;
- propose mediation to resolve the dispute;
- defend the application and, in the cases required by the Code, cooperate with the plaintiff in preparing the case protocol that is to govern the conduct of the proceeding. The protocol must be filed with the court office in the district specified above within 45 days after service of this summons. However, in family matters or if you have no domicile, residence or establishment in Québec, it must be filed within 3 months after service; or
- propose a settlement conference.

The answer to the summons must include your contact information and, if you are represented by a lawyer, the lawyer's name and contact information.

Where to file the judicial application

Unless otherwise provided, the judicial application is heard in the judicial district where your domicile is located, or failing that, where your residence or the domicile you elected or agreed to with plaintiff is located. If it was not filed in the district where it can be heard and you want it to be transferred there, you may file an application to that effect with the court.

However, if the application pertains to an employment, consumer or insurance contract or to the exercise of a hypothecary right on the immovable serving as your main residence, it is heard in the district where the employee's, consumer's or insured's domicile or residence is located, whether that person is the plaintiff or the defendant, in the district where the immovable is located or, in the case of property insurance, in the district where the loss occurred. If it was not filed in the district where it can be heard and you want it to be transferred there, you may file an application to that effect with the special clerk of that district and no contrary agreement may be urged against you.

Transfer of application to the Small Claims Division

If you qualify to act as a plaintiff under the rules governing the recovery of small claims, you may contact the clerk of the court to request that the application be processed according to those rules. If you make this request, the plaintiff's legal costs will not exceed those prescribed for the recovery of small claims.

Convening a case management conference

Within 20 days after the case protocol mentioned above is filed, the court may call you to a case management conference to ensure the orderly progress of the proceeding. Failing that, the protocol is presumed to be accepted.

Notice of presentation of an application

Applications filed in the course of a proceeding and applications under Book III or V of the Code—but excluding applications pertaining to family matters under article 409 and applications pertaining to securities under article 480—as well as certain applications under Book VI of the Code, including applications for judicial review, must be accompanied by a notice of presentation, not by a summons. In such circumstances, the establishment of a case protocol is not required.

Schedule II

MODEL ESTABLISHED BY THE MINISTER OF JUSTICE

SUBPOENA
(articles 269 and following C.C.P.)

(Identification of court record and parties)

Nature of the application: _____

At the request of: _____
(Name and contact information of the party requesting the calling of the witness)

We order: _____
(Name of the witness called to testify under subpoena)

TO ATTEND at court on _____, à _____ o'clock, to testify to everything of which the witness has knowledge in this case.

(Insert if necessary)

AND TO HAVE IN HIS/HER POSSESSION: _____.

(Insert if the witness testifies in person)

The witness must appear at courtroom _____ of the _____ courthouse located at _____.

(Insert if the witness testifies via a technical medium)

Before that date, the requisite information to enable the witness to testify _____ will be provided to the witness by _____.

(Indicate the technical medium used)

(Identify the proper person)

If the witness has received an advance on the indemnities and allowances payable to a witness and fails to attend, the court may order the witness to pay all or part of the costs caused by the failure to attend and may issue an arrest warrant.

Signed

at _____, on _____

(Signature)

(Name of the signatory in block letters)

(Signatory's title)

THE WITNESS MUST READ THE FOLLOWING INFORMATION

As a witness, you are required to attend at court to testify in the judicial application specified in this subpoena.

If you fail to attend in accordance with the subpoena, you may be compelled to testify and an arrest warrant may be issued against you by the court. In addition, the court may order you to pay all or part of the costs caused by your failure to attend.

You may be called:

- to give an account of the facts of which you have personal knowledge;
- to give an expert opinion; or
- to produce a document or other evidence.

Before testifying, you will be required to swear under oath to tell the truth. However, if the disclosure of your address gives cause to fear for your safety, you may ask the court to dispense you from disclosing it.

You have the right to be informed, by the calling party or by the calling party's lawyer if the calling party is represented, of the reason you have been called, the subject of your testimony and the order of the proceeding. The name and contact information of the calling party or of the calling party's lawyer if the calling party is represented are specified on the subpoena.

If your presence is no longer required, the calling party must so inform you.

If you are called, you may require the calling party to pay you 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. However, the calling party is dispensed from this obligation for expenses which it covers directly, if you are a party or if you are otherwise compensated.

If you are called to attend as a witness in the Small Claims Division of the Court of Québec, you will not be compensated, unless the court decides otherwise.

After you have testified, the clerk will certify your presence and determine the amount owed to you by the calling party. You must present this subpoena to the clerk along with the proof needed to establish the indemnities and allowances to which you are entitled.

This certificate has the force of an enforceable judgment. If the amounts to which you are entitled are not paid, you may immediately pursue payment of them against the calling party.

Employers and their agents are prohibited from taking any of the following actions against an employee on the grounds that the employee was called to attend at court or served as a witness:

- dismissing, suspending or transferring the employee;
- exercising discriminatory measures or reprisals against the employee;
- imposing any other penalty on the employee.

Schedule III

MODEL ESTABLISHED BY THE MINISTER OF JUSTICE

Certificate issued by the court for the subpoena calling a witness resident in another province or in a territory of Canada to attend at court
(article 497 C.C.P.)

I, the undersigned, _____, _____,
(first and last name) *(title of signatory)*
certify that the appearance of _____ is necessary to
(first and last name of witness)
resolve the matter _____ which is pending before
(designation of the parties)

(court)

(Add this paragraph if the law of the witness's place of residence requires that the court has heard and examined the party that issued the subpoena or the party's lawyer)

Before issuing this certificate, I heard and examined

(first and last name of the party that issued the subpoena or the party's lawyer)

If the physical presence in Québec of _____ is
(first and last name of witness)
necessary for his/her appearance, article 497 of the Code of Civil Procedure (CQLR, c. C-25.01) grants him/her the following protection:

“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.”

Issued at _____, on _____
(place) *(date)*

(signature)

(title of signatory)

Schedule IV

MODEL ESTABLISHED BY THE MINISTER OF JUSTICE

**NOTICE OF EXECUTION DRAWN UP BY
THE COLLECTOR**
(articles 681 and 682 C.C.P. and 330 C.C.P.)

SECTION I – IDENTIFICATION OF RECORD

(Compulsory indication)

Initial notice of execution

(Choose the applicable indication)

Filed in the office of the court of _____ in the district of _____

Filed in the office of the municipal court of _____

in record number: _____

(Only one record number may be entered)

(Add the other record numbers concerned by the initial notice of execution, if applicable)

Other record numbers concerned: (see schedule)

(Include this information if the notice of execution is amended)

Notice of execution amended on _____ – read Section VI

(Indicate the date of the last amendment)

(If the notice is amended to add other records, indicate the record numbers)

Other record numbers concerned: (see schedule)

SECTION II – IDENTIFICATION OF PARTIES

(Identify the seizer, the defendant and, if applicable, the executing bailiff and the garnishee)

Seizer

Collector responsible for recovery of the amounts owed

(BRIA or municipal court)

(address)

(telephone)

(fax)

(E-mail)

Defendant

(name of defendant)

(address)

Bailiff

(name of the executing bailiff)

(name of firm)

(address)

(telephone)

(fax)

(E-mail)

Garnishee

(name of garnishee)

(address)

(Add the contact information for the other garnishees, if applicable)

SECTION III – NOTICE TO DEFENDANT

(Compulsory indication)

The collector responsible for recovery of the amounts owed and acting as the seizer by law hereby proceeds with measures to force execution.

FORCED EXECUTION OF A JUDGMENT

You have failed to pay the amounts owed following the judgment rendered against you.

The collector commences the forced execution of a judgment when the time limit for paying the amounts owed has expired or when the defendant fails to comply with an agreement entered into with the collector.

You may obtain release of seizure by paying the amount you are ordered to pay in the judgment, including execution costs.

You may oppose the execution measures commenced against you within **15 days** following notification of the minutes of seizure, the notice of sale or the seizure in the hands of a third person, in accordance with articles 735 and 736 C.C.P.

In the case of a seizure in the hands of a third person, you may contest the garnishee's declaration within **10 days**, in accordance with article 711 C.C.P.

SECTION IV – CONCLUSIONS OF THE JUDGMENT

(Compulsory indication)

Judgment

Record number: _____

A judgment was rendered against you on _____; it orders you to pay the following amounts:
Fine \$ _____
Costs \$ _____
Contribution \$ _____
Surcharge \$ _____
Additional costs \$ _____
Cost of this notice of execution and service \$ _____
Partial execution \$ _____ (enter the amount of the partial execution with the sign (-))
Total \$ _____

(Complete this section if other judgments are concerned by the notice of execution)

Other judgments concerned by the notice of execution (see details in the schedule)
Total: \$ _____

(Compulsory indication)

Total amount claimed under this notice of execution: \$ _____

(Compulsory indication)

The professional fees and other expenses of the bailiff for the execution of this notice of execution will be added, if applicable.

SECTION V – EXECUTION MEASURES

(Compulsory indication)

The collector is proceeding with the following execution measures:

(Select the boxes containing the execution measures that apply)

SEIZURE OF THE DEFENDANT'S MOVABLE PROPERTY

(Select the statements that apply)

Seizure of all the defendant's movable property.

Seizure, by notification of the notice of execution to the Société de l'assurance automobile du Québec (SAAQ), of the road vehicle registered and identified as follows:

Licence plate number	Vehicle identification number	Model	Year

From the date of this notification, the registration may not be transferred unless the SAAQ is informed by the bailiff that release of seizure has been granted.

SEIZURE OF THE DEFENDANT'S IMMOVABLE PROPERTY

Seizure of the immovable property specified in the instructions and described as follows (designated in accordance with the rules of the C.C.Q. and by municipal address):

You, the DEFENDANT, have **two months** from the seizure to sell the seized immovable by agreement unless it is hypothecated. You must obtain the bailiff's approval before concluding the sale.

If you renounce this right or fail to exercise it within the time limit, the bailiff may proceed with the sale of the property.

SEIZURE OF THE DEFENDANT'S PROPERTY IN THE HANDS OF THIRD PERSONS

You, the GARNISHEE, are bound to declare to the collector, located at _____, the amount, cause and terms of your current or potential indebtedness to the defendant at the time the declaration is made. You have **10 days** from the service of the notice of execution to make your declaration.

You must provide with the declaration a detailed statement of the defendant's property that is in your possession, specifying under what title the property is held.

You must also disclose any seizures made in your hands of income, sums of money or property belonging to the defendant.

If the declaration concerns movable or immovable property, it must be made to the executing bailiff.

At the collector's or bailiff's request, you are also required to provide all relevant documents relating to your debt toward the defendant.

(Select the statements that apply)

If the seizure concerns the defendant's **income**, you are required to remit to the clerk of _____ at _____, under _____ *(identify the court)* _____ *(address of the court)* record number _____, the seizable portion of what you owe to _____ *(record number of the initial notice of execution)*

the defendant. You have **10 days** from service of the notice of execution to remit the amount.

If the seizure concerns **sums of money** that you owe to the defendant, you are required to remit them to the clerk of _____ at _____, under _____ *(identify the court)* _____ *(address of the court)* record number _____, if the collector so requests or if a clerk _____ *(record number of the initial notice of execution)*

orders you to do so.

If the seizure concerns certificated **securities**, you must declare to the collector:

- the number of securities held by the defendant;
- the extent to which the securities are paid up;
- the interest, dividends or other distributions declared but not yet paid.

If the seizure concerns **property** of the defendant in your possession, you are required to deliver it to the bailiff, if the bailiff so requests or if a clerk orders you to do so.

(Compulsory indication)

You may be ordered to pay the amount owed by the defendant if you fail to declare, withhold or deposit a sum of money or if you make a false declaration.

SECTION VI – AMENDMENT(S) TO THE NOTICE OF EXECUTION

(Complete this section each time the notice of execution is amended)

(Complete Sections I, II, IV and V to reflect the amendment(s) made)

On *(Indicate the date of the amendment)*, the notice of execution was amended for the following reason(s):

(Select the statements that apply)

Another judgment has been rendered against you in record number: _____
(read Sections I and IV).

The judgment bearing number _____ was withdrawn from the notice of execution for the

(Enter the record number)

following reason: _____ (read Sections I and IV).

No additional execution measure is required.

The following additional execution measures are required (read Sections II and V):

At _____, on _____

(Collector's signature)

(Compulsory indication)

For more information, please contact the collector or, if applicable, the executing bailiff.

SCHEDULE

INITIAL NOTICE OF EXECUTION

Other record numbers concerned by the initial notice of execution:

Record number	Date of judgment	Fine	Costs	Contribution	Surcharge	Additional costs	Partial execution	TOTAL

* Read Section IV to ascertain the total amount claimed in the notice of execution.

AMENDMENT(S) TO THE NOTICE OF EXECUTION

Other record numbers concerned following the amendment(s) to the notice of execution:

Record number	Date of judgment	Fine	Costs	Contribution	Surcharge	Additional costs	Partial execution	TOTAL

* Read Section IV to ascertain the total amount claimed in the notice of execution.

Schedule V

MODEL ESTABLISHED BY THE MINISTER OF JUSTICE

**NOTICE OF EXECUTION DRAWN UP
UNDER A SPECIFIC LAW**
(articles 681 and 682 C.C.P.)
(Cite the relevant articles of the specific
laws concerned)

SECTION I – IDENTIFICATION OF RECORD

(Compulsory indication)
Initial notice of execution
(Choose the applicable indication)
Filed in the office of the court of _____ in the district of _____
Filed in the office of the municipal court of _____

in record number: _____
(Only one record number may be entered)

(Add the other record numbers concerned by the initial notice of execution, if applicable)
Other record numbers concerned: _____

(Include this information if the notice of execution is amended)
Notice of execution amended on _____ – read Section VI
(Indicate the date of the last amendment)

(If the notice is amended to add other records, indicate the record numbers)
Other record numbers concerned: _____

SECTION II – IDENTIFICATION OF PARTIES

(Identify the seizer pursuant to the specific law concerned, the defendant and, if applicable, the executing bailiff and the garnishee)

Seizer
***(Identify the seizer pursuant to the specific law concerned)* responsible for recovery of the amounts owed**

(name of seizer)

(address)

(telephone) (fax) (E-mail)

Defendant

(name of defendant)

(address)

Bailiff

(name of the executing bailiff)

(name of firm)

(address)

(telephone)

(fax)

(E-mail)

Garnishee

(name of garnishee)

(address)

(Add the contact information for the other garnishees, if applicable)

SECTION III – NOTICE TO DEFENDANT

(Compulsory indication)

(Identify the seizer pursuant to the specific law concerned) responsible for recovery of the amounts owed and acting as the seizer by law hereby proceeds with execution measures.

FORCED EXECUTION OF A JUDGMENT OR DECISION

You have voluntarily failed to execute a judgment or decision rendered against you.

The seizer commences the forced execution of a judgment or decision when the time limit for paying the amounts owed has expired or when the defendant fails to comply with an agreement entered into with the collector.

You may obtain release of seizure by paying the amount you are ordered to pay in the judgment, including execution costs.

You may oppose the execution measures commenced against you within **15 days** following notification of the minutes of seizure, the notice of sale or the seizure in the hands of a third person, in accordance with articles 735 and 736 C.C.P.

In the case of a seizure in the hands of a third person, you may contest the garnishee's declaration within **10 days**, in accordance with article 711 C.C.P.

SECTION IV – CONCLUSIONS OF THE JUGEMENT OR DECISION

(Complete this section for each record concerned, if applicable)

(Compulsory indication)

Judgment or decision

Record number: _____

A judgment or decision rendered on _____ orders you to pay the following amounts:

Amount of the judgment or decision \$ _____

Interest \$ _____ at the rate of (*insert the specific rate*), beginning on _____ until _____
 and, if applicable, the additional indemnity

Legal costs \$ _____

Interest on legal costs \$ _____ at the legal rate beginning on _____

Costs after judgment \$ _____

Interest on costs after judgment \$ _____

Cost of this notice of execution \$ _____

Other costs \$ _____ (*cite relevant articles/sections*)

Partial execution of the judgment or decision \$ _____ (enter the amount of the partial execution with the sign (-))

Total \$ _____

The professional fees and other expenses of the bailiff for the execution of this notice of execution will be added.

SECTION V – EXECUTION MEASURES

(Compulsory indication)

The seizer is proceeding with the following execution measures:

(Select the boxes containing the execution measures that apply)

SEIZURE OF THE DEFENDANT'S MOVABLE PROPERTY

(Select the statements that apply)

Seizure of all the defendant's movable property.

Seizure of the movable property specified in the instructions and described as follows:

Seizure, by notification of the notice of execution to the Société de l'assurance automobile du Québec (SAAQ), of the road vehicle registered and identified as follows:

Licence plate number	Vehicle identification number	Model	Year

From the date of this notification, the registration may not be transferred unless the SAAQ is informed by the bailiff that release of seizure has been granted.

SEIZURE OF THE DEFENDANT'S IMMOVABLE PROPERTY

Seizure of the immovable property specified in the instructions and described as follows (designated in accordance with the rules of the C.C.Q. and by municipal address):

You, the DEFENDANT, have **two months** from the seizure to sell the seized immovable by agreement unless it is hypothecated. You must obtain the bailiff's approval before concluding the sale.

If you renounce this right or fail to exercise it within the time limit, the bailiff may proceed with the sale of the property.

SEIZURE OF THE DEFENDANT'S PROPERTY IN THE HANDS OF THIRD PERSONS

You, the GARNISHEE, are bound to declare to the seisor, located at _____ - _____,

the amount, cause and terms of your current or potential indebtedness to the defendant at the time the declaration is made. You have **10 days** from the service of the notice of execution to make your declaration.

You must provide with the declaration a detailed statement of the defendant's property that is in your possession, specifying under what title the property is held.

You must also disclose any seizures made in your hands of income, sums of money or property belonging to the defendant.

If the declaration concerns movable or immovable property, it must be made to the executing bailiff.

At the seizer's or bailiff's request, you are also required to provide all relevant documents relating to your debt toward the defendant.

(Select the statements that apply)

If the seizure concerns the defendant's **income**, you are required to remit to the clerk of _____ at _____, under
(identify the court) *(address of the court)*
record number _____, the seizable portion of what you
(record number of the initial notice of execution)
owe to the defendant. You have **10 days** from service of the notice of execution to remit the amount.

If the seizure concerns **sums of money** that you owe to the defendant, you are required to remit them to the clerk of _____ at _____, under
(identify the court) *(address of the court)*
record number _____, if the seizer so requests or if a clerk
(record number of the initial notice of execution)
orders you to do so.

If the seizure concerns certificated **securities**, you must declare to the collector:

- the number of securities held by the defendant;
- the extent to which the securities are paid up;
- the interest, dividends or other distributions declared but not yet paid.

If the seizure concerns **property** of the defendant in your possession, you are required to deliver it to the bailiff, if the bailiff so requests or if a clerk orders you to do so.

(Compulsory indication)

You may be ordered to pay the amount owed to the seizer if you fail to declare, withhold or deposit a sum of money or if you make a false declaration.

SECTION VI – AMENDMENT(S) TO THE NOTICE OF EXECUTION

(Complete this section each time the notice of execution is amended)

(Complete Sections I, II, IV and V to reflect the amendment(s) made)

On *(Indicate the date of the amendment)*, the notice of execution was amended for the following reason(s):

(Select the statements that apply)

Another judgment or decision has been rendered against you in record number: _____ (read Sections I and IV).

The judgment bearing number _____ was withdrawn from the notice of execution for the

(Enter the record number)

following reason: _____ (read Sections I and IV).

No additional execution measure is required.

The following additional execution measures are required (read Sections II and V):

At _____, on _____

(Signature of the seizer's attorneys)

(Compulsory indication)

For more information, please contact the seizer or, if applicable, the executing bailiff.