

Quebec Code of Civil Procedure
Class Action Excerpts

TITLE III

SPECIAL RULES FOR CLASS ACTIONS

CHAPTER I

INTRODUCTORY PROVISIONS



571. A class action is a procedural means enabling a person who is a member of a class of persons to sue, without a mandate, on behalf of all the members of the class and to represent the class.

In addition to natural persons, legal persons established for a private interest, partnerships and associations or other groups not endowed with juridical personality may be members of the class.

A legal person established for a private interest, a partnership or an association or another group not endowed with juridical personality may, even without being a member of a class, ask to represent the class if the director, partner or member designated by that entity is a member of the class on behalf of which the entity is seeking to institute a class action, and the designee's interest is related to the purposes for which the entity was constituted.

2014, c. 1, a. 571.



572. As soon as an application for authorization to institute a class action is filed, the chief justice, unless the chief justice decides otherwise, assigns a judge as special case management judge to manage the proceeding and hear all procedural matters relating to the class action. The chief justice may assign a judge despite there being grounds for the judge's recusation, provided the chief justice considers the situation, in the context of the case, does not undermine the impartiality of the judiciary.

After considering the interests of the parties and of the class members, the chief justice may determine the district in which the application for authorization is to be heard or the class action instituted.

2014, c. 1, a. 572.



573. A central registry of class actions is kept at the Superior Court under the authority of the chief justice. Applications for authorization and originating applications, pleadings filed in the course of a proceeding and notices to class members, as well as any other documents specified in the chief justice's instructions, are registered in the registry.

2014, c. 1, a. 573.

CHAPTER II

AUTHORIZATION TO INSTITUTE CLASS ACTION



574. Prior authorization of the court is required for a person to institute a class action.

The application for authorization must state the facts on which it is based and the nature of the class action, and describe the class on whose behalf the person intends to act. It must be served on the person against whom the person intends to institute the class action, with at least 30 days' notice of the presentation date.

An application for authorization may only be contested orally, and the court may allow relevant evidence to be submitted.

2014, c. 1, a. 574.



575. The court authorizes the class action and appoints the class member it designates as representative plaintiff if it is of the opinion that

(1) the claims of the members of the class raise identical, similar or related issues of law or fact;

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- (2) the facts alleged appear to justify the conclusions sought;
 - (3) the composition of the class makes it difficult or impracticable to apply the rules for mandates to take part in judicial proceedings on behalf of others or for consolidation of proceedings; and
 - (4) the class member appointed as representative plaintiff is in a position to properly represent the class members.
- 2014, c. 1, a. 575.



576. The judgment authorizing a class action describes the class whose members will be bound by the class action judgment, appoints the representative plaintiff and identifies the main issues to be dealt with collectively and the conclusions sought in relation to those issues. It describes any subclasses created and determines the district in which the class action is to be instituted. The judgment orders the publication of a notice to class members; it may also order the representative plaintiff or a party to make information on the class action available to the class members, including by setting up a website. The judgment also determines the time limit for opting out of the class. The opting-out period cannot be shorter than 30 days or longer than six months after the date of the notice to class members. The time limit for opting out is a strict time limit, although a class member, with leave of the court, may opt out after its expiry on proving that it was impossible in fact for the class member to act sooner.

2014, c. 1, a. 576.



577. The court cannot refuse to authorize a class action on the sole ground that the class members are part of a multi-jurisdictional class action already under way outside Québec. If asked to decline jurisdiction, to stay an application for authorization to institute a class action or to stay a class action, the court is required to have regard for the protection of the rights and interests of Québec residents. If a multi-jurisdictional class action has been instituted outside Québec, the court, in order to protect the rights and interests of class members resident in Québec, may disallow the discontinuance of an application for authorization, or authorize another plaintiff or representative plaintiff to institute a class action involving the same subject matter and the same class if it is convinced that the class members' interests would thus be better served.

2014, c. 1, a. 577; I.N. 2016-12-01.



578. A judgment authorizing a class action may be appealed only with leave of a judge of the Court of Appeal. A judgment denying authorization may be appealed as of right by the applicant or, with leave of a judge of the Court of Appeal, by a member of the class on whose behalf the application for authorization was filed. The appeal is heard and decided by preference.

2014, c. 1, a. 578.

CHAPTER III NOTICES



579. When a class action is authorized, a notice is published or notified to the class members

- (1) describing the class and any subclass;
- (2) setting out the principal issues to be dealt with collectively and the conclusions sought in relation to those issues;
- (3) stating the representative plaintiff's name, the contact information of the representative plaintiff's lawyer and the district in which the class action is to proceed;
- (4) stating that class members have the right to seek intervenor status in the class action;

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(5) stating that class members have the right to opt out of the class and specifying the procedure and time limit for doing so;

(6) stating that no class member other than the representative plaintiff or an intervenor may be required to pay legal costs arising from the class action; and

(7) providing any additional information the court considers useful, including the address of the website for the central registry of class actions.

The court determines the date, form and method of publication of the notice, having regard to the nature of the class action, the composition of the class and the geographical location of its members. The notice identifies, by name or a description, any class members who are to receive individual notification. If the court sees fit, it may authorize the publication of an abbreviated notice.

2014, c. 1, a. 579.



580. A class member who wishes to opt out of the class or a subclass is required to so inform the court clerk before the time limit for doing so has expired. A person who has opted out is not bound by any judgment on the representative plaintiff's application.

A class member who does not discontinue an originating application having the same subject matter as the class action before the time for opting out has expired is deemed to have opted out.

2014, c. 1, a. 580.



581. At any stage of a class action, the court may order a notice to be published or notified to the class members if it considers it necessary for the protection of their rights. The notice, which must describe the class and include the parties' names, their lawyers' contact information and the representative plaintiff's name, must be clear and concise.

2014, c. 1, a. 581.



582. In cases where the sending of a notice of claim is required by the Cities and Towns Act ([chapter C-19](#)), the Municipal Code of Québec ([chapter C-27.1](#)) or a municipal charter as a prior condition to the institution of an action, a notice of claim given by one class member is valid for all class members, and insufficiency of the notice cannot be urged against the representative plaintiff.

2014, c. 1, a. 582.

CHAPTER IV

CONDUCT OF CLASS ACTION



583. The originating application in a class action must be filed with the court office not later than three months after the class action is authorized, under pain of the authorization being declared lapsed.

If an application for a declaration of lapse is filed, notice of the application, using the method of publication determined by the court, must be given to the class members at least 15 days before the date on which the application is to be presented. The representative plaintiff, or another class member asking to be substituted as representative plaintiff, may prevent the authorization from being declared lapsed by filing an originating application with the court office.

2014, c. 1, a. 583.



584. The defendant cannot urge a preliminary exception against the representative plaintiff unless it concerns a substantial number of the class members and pertains to an issue to be dealt with collectively. Nor may the defendant request a splitting of the proceeding or institute a cross-application.

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2014, c. 1, a. 584.



585. The representative plaintiff must have the authorization of the court to amend a pleading, to discontinue the application, to withdraw a pleading or to renounce rights arising from a judgment. The court may impose any conditions it considers necessary to protect the rights of the class members.

An admission by the representative plaintiff is binding on the class members unless the court considers that the admission causes them prejudice.

2014, c. 1, a. 585.



586. A class member cannot intervene voluntarily for the plaintiffs except to assist the representative plaintiff or to support the representative plaintiff's application or contentions. The court authorizes an intervention if it is of the opinion that the intervention will be helpful to the class. The court may limit an intervenor's right to file a pleading or participate in the trial.

2014, c. 1, a. 586.



587. A party cannot subject a class member other than the representative plaintiff or an intervenor to a pre-trial examination or to a medical examination, nor may a party examine a witness outside the presence of the court. The court may make exceptions to these rules if it considers that doing so would be useful for its determination of the issues of law or fact to be dealt with collectively.

2014, c. 1, a. 587.



588. The court may at any time, on the application of a party, revise or annul the authorization judgment if it considers that conditions relating to the issues of law or fact or to the composition of the class are no longer satisfied.

If the court revises the authorization judgment, it may allow the representative plaintiff to amend the conclusions sought. In addition, if circumstances so require, the court may, even on its own initiative, modify or divide the class at any time.

If the court annuls the authorization judgment, the proceeding continues between the parties before the competent court according to the procedure set out in Book II.

2014, c. 1, a. 588.



589. The representative plaintiff is deemed to retain sufficient interest to act even if that person's personal claim is extinguished. The representative plaintiff cannot waive the status of representative plaintiff without the authorization of the court, which cannot be given unless the court is able to appoint another class member as representative plaintiff.

If the representative plaintiff is no longer in a position to properly represent the class members or if that person's personal claim is extinguished, another class member may ask the court to be substituted as representative plaintiff or propose some other class member for that purpose.

A substitute representative plaintiff continues the proceeding from the stage it has reached; with the authorization of the court, the substitute may refuse to confirm any prior acts if they have caused irreparable prejudice to the class members. The substitute is not liable for legal costs and other expenses in relation to any act prior to the substitution that the substitute has not confirmed, unless the court orders otherwise.

2014, c. 1, a. 589.



590. A transaction, acceptance of a tender, or an acquiescence is valid only if approved by the court. Such approval cannot be given unless notice has been given to the class members.

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In the case of a transaction, the notice must state that the transaction will be submitted to the court for approval on the date and at the place indicated. It must specify the nature of the transaction, the method of execution chosen and the procedure to be followed by class members to prove their claim. The notice must also inform class members that they may assert their contentions before the court regarding the proposed transaction and the distribution of any remaining balance. The judgment approving the transaction determines, if necessary, the mechanics of its execution.

2014, c. 1, a. 590.

CHAPTER V

JUDGMENT AND EXECUTION MEASURES

DIVISION I

JUDGMENT, AND ITS EFFECTS AND PUBLICATION



591. The judgment on a class action describes the class to which it applies, and is binding on all class members who have not opted out.

Once the judgment has become final, the court of first instance orders the publication of a notice stating the substance of the judgment and notification of the notice to each known class member.

2014, c. 1, a. 591.



592. If the judgment awards damages or a monetary reimbursement, it specifies whether members' claims are to be recovered collectively or individually.

2014, c. 1, a. 592.



593. The court may award the representative plaintiff an indemnity for disbursements and an amount to cover legal costs and the lawyer's professional fee. Both are payable out of the amount recovered collectively or before payment of individual claims.

In the interests of the class members, the court assesses whether the fee charged by the representative plaintiff's lawyer is reasonable; if the fee is not reasonable, the court may determine it.

Regardless of whether the Class Action Assistance Fund provided assistance to the representative plaintiff, the court hears the Fund before ruling on the legal costs and the fee. The court considers whether or not the Fund guaranteed payment of all or any portion of the legal costs or the fee.

2014, c. 1, a. 593.



594. When an application for the homologation of a transaction or the recognition of a judgment in a foreign class action is made to the court, the court makes sure that the rules of the Civil Code that apply to the recognition and enforcement of foreign decisions have been complied with and that the notices given in Québec in connection with the class action were sufficient.

As well, the court is required to make sure that the requirements that governed the exercise of the rights of Québec residents are equivalent to those imposed in class actions brought before a Québec court, that Québec residents may exercise their rights in Québec in accordance with the rules applicable in Québec and that, in the case of collective recovery of claims, the remittance of any remaining balance to a third person will be decided by it insofar as the Québec residents' share is concerned.

2014, c. 1, a. 594.

DIVISION II

COLLECTIVE RECOVERY OF CLAIMS



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595. The court orders collective recovery of the class members' claims if the evidence allows a sufficiently precise determination of the total claim amount. The total claim amount is determined without regard to the identity of individual class members or the exact amount of their respective claims.

After determining the total claim amount, the court may order that it be deposited in its entirety, or according to the terms it specifies, with a financial institution carrying on business in Québec; the interest on the amount deposited accrues to the class members. The court may reduce the total claim amount if it orders an additional form of reparation, or may order reparation appropriate to the circumstances instead of a monetary award.

If execution measures prove necessary, instructions are given to the bailiff by the representative plaintiff.

2014, c. 1, a. 595.



596. A judgment that orders collective recovery makes provision for individual liquidation of the class members' claims or for distribution of an amount to each class member.

The court designates a person to carry out the operation, gives them the necessary instructions, including instructions as to proof and procedure, and determines their remuneration.

The court disposes of any remaining balance in the same manner as when remitting an amount to a third person, having regard, among other things, to the members' interests. If the judgment is against the State, the remaining balance is paid into the Access to Justice Fund.

2014, c. 1, a. 596.



597. If the individual liquidation of the class members' claims or the distribution of an amount to each class member is impracticable, inappropriate or too costly, the court determines the balance remaining after the collocation of the costs, fee and disbursements and orders that the amount be remitted to a third person it designates.

However, before remitting the amount to a third person, the court hears the representations of the parties, the Class Action Assistance Fund and any other person whose opinion the court considers useful.

2014, c. 1, a. 597.



598. The liquidation, distribution or remittance of the amount recovered collectively is effected after payment, in the following order, of

- (1) the legal costs, including the cost of notices and the remuneration of the person designated to carry out the liquidation or distribution;
- (2) the fee of the representative plaintiff's lawyer, to the extent determined by the court; and
- (3) the representative plaintiff's disbursements, to the extent determined by the court.

2014, c. 1, a. 598.

DIVISION III

INDIVIDUAL RECOVERY OF CLAIMS



599. A judgment ordering individual recovery specifies what issues remain to be decided in order to determine individual claims. It sets out the content of the judgment notice to class members, which must include explanations as to those issues and as to the information and documents to be provided in support of an individual claim and any other information determined by the court.

Within one year after the publication of the notice, class members must file their claim with the office of the court in the district where the class action was heard or in any other district the court specifies.

2014, c. 1, a. 599.

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600. The court determines the claim of each class member or orders the special clerk to determine it according to the procedure it establishes. The court may determine special methods of proof and procedure for such purpose.

2014, c. 1, a. 600.



601. At the trial of an individual claim, the defendant may urge against a claimant a preliminary exception that this Title did not earlier permit against the representative plaintiff.

2014, c. 1, a. 601.

DIVISION IV

APPEAL



602. The judgment on a class action may be appealed as of right.

If the representative plaintiff does not initiate an appeal or if the appeal is dismissed on the grounds that it was not properly initiated, a class member may, within two months after the publication or notification of the judgment notice, apply to the Court of Appeal for permission to be substituted as representative plaintiff in order to appeal the judgment.

The time limit in this article is a strict time limit.

2014, c. 1, a. 602.



603. The appellant asks the court of first instance to determine the content of the notice to be given to class members.

2014, c. 1, a. 603.



604. If the Court of Appeal grants the representative plaintiff's appeal, even in part, it may order that the record be sent to the court of first instance for collective recovery of claims or for determination of individual claims.

2014, c. 1, a. 604.