Bill 8: Amendments to the Code of Civil Procedure to improve access to justice

May 11, 2023

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Introduction

On February 1, 2023, Minister of Justice Simon Jolin-Barrette introduced and tabled in the National Assembly Bill 8 entitled *An Act to improve justice efficiency and accessibility, in particular by promoting mediation and arbitration and by simplifying civil procedure in the Court of Québec*[1] (hereinafter the "**Bill**").

The Bill makes amendments to several laws, including the *Courts of Justice Act*[2] and the *Professional Code*[3]. We are particularly interested in those relating to the *Code of Civil Procedure* ("**C.C.P.**"),[4] and more specifically to proceedings pending before the Court of Québec of which practitioners and persons subject to trial will want to take note.

Proposed Amendments to the *Code of Civil Procedure*

Most of the amendments to the C.C.P. will come into effect on June 30, 2023[5]. We note the following, in particular:

Jurisdiction of the Court

Exclusive jurisdiction granted to the Court of Québec to hear applications in which the amount claimed or the value of the subject matter of the dispute is less than $75,000,[6] instead of $85,000, which is the limit in effect on the date of this bulletin. However, the Court of Québec will continue to hear applications under the $85,000 limit that were filed prior to June 30, 2023, and these will remain governed by the provisions of the C.C.P., as they read before June 30, 2023;[7]

Concurrent jurisdiction with that of the Superior Court granted to the Court of Québec where the amount claimed or the value of the subject matter of the dispute is equal to or exceeds $75,000 but is less than $100,000.[8]

Case management

The Bill also introduces a special procedure for applications in civil matters brought before the Court of Québec in

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which the amount claimed or the value of the subject matter of the dispute is less than $100,000:[9]

The preparation of a case protocol will no longer be necessary, as set time limits will now apply to all recourses;[10]

Originating applications must not exceed five pages in length;[11]

Preliminary exceptions must be disclosed within 45 days of filing an application;[12]

A defendant's arguments must be disclosed within 95 days of filing an application;[13]

Settlement conferences will be held automatically after trial readiness is achieved (settlement conferences may also be replaced by pre-trial conferences);[14]

Cases will be set down for trial and judgment by a court clerk.[15]

Requests for particulars as to allegations made or to strike immaterial allegations

The Court of Québec will only authorize such requests by way of exception and if warranted on serious grounds.[16]

Examinations

The limit below which holding an oral examination on discovery is not permitted will be increased to $50,000.[17] Currently, the limit is $30,000;

Each party will be entitled to only a single oral examination on discovery, unless the Court decides otherwise;[18]

Written examinations must not exceed three pages in length.[19]

Expert opinion

Parties must seek a joint expert opinion in cases where the amount claimed or the value of the property claimed is equal to or less than $50,000, unless the Court decides otherwise.[20]

Small claims

With the parties' consent, the Court may render judgment on the face of the record when the matter concerns the recovery of a claim of $15,000 or less.[21]

Adjustments

Each of the monetary limits for the Court of Québec's jurisdiction will be adjusted annually.[22]

Conclusion

The proposed measures will significantly impact how lawyers will now handle and manage disputes in which the amount claimed is less than $100,000.

The concurrent jurisdiction of the Court of Québec with that of the Superior Court for cases with a value equal to or exceeding $75,000 but less than $100,000 is interesting: Although the procedure for conducting proceedings in the Court of Québec has been simplified for such cases, it is likely that many cases will nonetheless be instituted in the Superior Court, as its procedural process is a little less intrusive, particularly with respect to joint expert opinions, mandatory settlement conferences and the number of examinations.

The Minister of Justice is hopeful that the amendments to the Act will improve access to justice for persons subject to trial, thanks to faster and less costly justice services, among other things. While these amendments will allow for more out-of-court settlements and prevent costly trials, we believe that there is still some uncertainty as to how accessible the expedited process will be, given the current staffing shortages in courthouses.

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1. An Act to improve justice efficiency and accessibility, in particular by promoting mediation and arbitration and by simplifying civil procedure in the Court of Québec, Bill 8 (Introduced — February 1, 2023), 43rd Legislature, 1st Session (Qc) ("**B.**").

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2. Courts of Justice Act, CQLR c. T-16.

3. Professional Code, CQLR, c. C-26.

4. Code of Civil Procedure, CQLR c. C-25.01.

5. Transitional provision: claims of $85,000 initiated in the Court of Quebec before June 30, 2023 will continue under the provisions in effect prior to the coming into force of the PL amendments (PL, s 44).

6. B., s. 3; C.C.P., art. 35.

7. B., s. 44.

8. B., s. 3; C.C.P., art. 35.

9. B., s. 8; C.C.P., art. 535.1.

10. B., s. 8; C.C.P., art. 535.2.

11. B., s. 8; C.C.P., art. 535.3.

12. B., s. 8; C.C.P., art. 535.5.

13. B., s. 8; C.C.P., art. 535.6.

14. B., s. 8; C.C.P., art. 535.12.

15. B., s. 8; C.C.P., art. 535.13.

16. B., s. 8; C.C.P., art. 535.11.

17. B., s. 7; C.C.P., art. 229.

18. B., s. 8; C.C.P., art. 535.9, para. 2.

19. B., s. 8; C.C.P., art. 535.9.

20. B., s. 8; C.C.P., art. 535.15.

21. B., s. 15; C.C.P., art. 561.1.

22. B., s. 3; C.C.P., art. 35.

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