



We make it a point of law  
to guide you

Lawyer/client relationship

Barreau  
du Québec



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## YOUR LAWYER, YOUR EXPERT IN SOLUTIONS

Why wait for a situation to deteriorate into a legal dispute before consulting a lawyer? Lawyers who are members in good standing of the Barreau du Québec can provide you with information on laws and regulations, give you advice and represent you in court if that becomes necessary. To assert your rights, there are also other options than going to court or trial. In fact, you can opt, instead, for a participatory justice process where together, you and your lawyer can determine the best way of preventing or resolving a dispute – for example, through mediation or conciliation – before resorting to the Court.

Your lawyer is there to help you find the best solution for getting you out of a deadlock situation or for preventing you from falling into one. By consulting a lawyer in good time, you can avoid many problems and financial losses.

Team up with your lawyer  
in a solid relationship  
based on open and  
honest communication

*Please note:* Where necessary, the masculine form has been used in this brochure to include the feminine, solely for easier reading.

## WELL PREPARED IS HALF DONE

You're teaming up with your lawyer. Preparing well for your first meeting is the key to getting your business relationship off to a good start. Decide on what your expectations are in dealing with him. Put your relevant papers in order and bring them with you. Write down all the questions you want to ask him and the sequence of events in the order they occurred, describing the facts in detail. Include the names and addresses of any potential witnesses, if need be.

### Examples of questions you might ask your lawyer:

- ▶ Do I have an arguable case?
- ▶ Can the problem be settled out of court (by dispute prevention and resolution processes\*)?
- ▶ How long will the process take?
- ▶ What are the costs to be expected?
- ▶ What will happen if I lose? Or if I win?

Since the new *Code of Civil Procedure* came into force in January 2016, your lawyer has been under obligation to inform you of the dispute prevention and resolution (DPR) processes and everyone faced with a legal dispute must first try and reach a settlement before turning to the courts.

The Barreau du Québec provides the public and its members with three Client Profile forms—general, family, business—in order to better identify clients' needs and expectations in relation to the justice system, evaluate how much they know about dispute prevention and resolution processes and give them information in this regard. These forms may be found on the Barreau's Website ([www.barreau.qc.ca/en](http://www.barreau.qc.ca/en)), under "For the public".

## THE COSTS RELATED TO A LAWYER'S SERVICES

A climate of trust is generally created if both the client and the lawyer are clear about the mandate, costs and expectations, and so these should be discussed from the very start.

Under the *Code of Professional Conduct of Lawyers*, it is their duty to inform you of the approximate and foreseeable costs of their services, even if they can't predict the exact total cost of settling the dispute.

Lawyers' fees are fair and reasonable if they are justified by the circumstances and are in proportion to the professional services provided.

Lawyers' fees are based on their experience, the time and effort required, the complexity of the problem, the importance of the matter to their client, the responsibility assumed, the performance of professional services that are unusual or require special skills or exceptional speed, the fees prescribed by laws and regulations, out-of-pocket expenses, commissions, rebates, extrajudicial costs or other benefits that are paid by a third party in relation to the mandate given to them by their client, and lastly, the fees are based on the results obtained.

It is therefore recommended that a written agreement be drawn up with your lawyer, on the nature and scope of the mandate you are giving him as well as the method of calculating his fees and the amount.

### THE CODE OF PROFESSIONAL CONDUCT OF LAWYERS

The *Code of Professional Conduct of Lawyers* lays down the rules governing their conduct in their relations with their clients, their colleagues, the members of the judicial system, etc. You may consult this Code on the Barreau du Québec's Website.

\* See pages 12 and 13 of this brochure for more details on the various DPR processes.

## BILLING METHODS

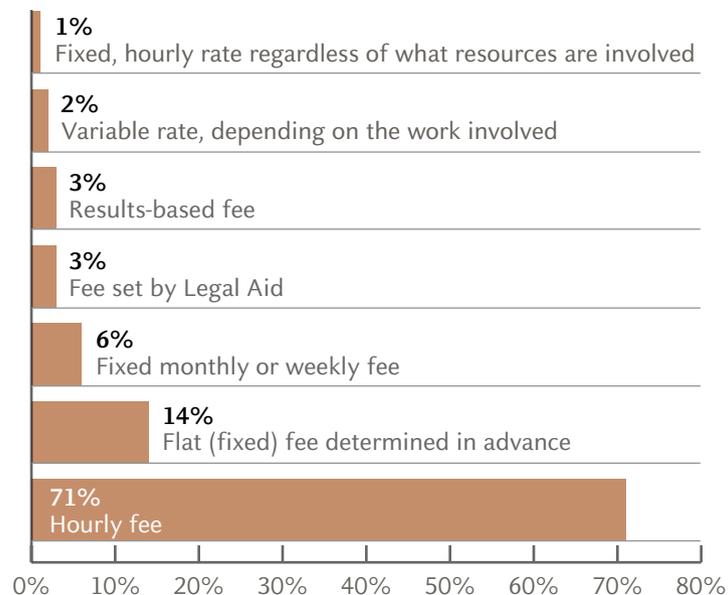
Billing methods	Description
<b>HOURLY</b>	The hourly fee is set on the basis of the lawyer's experience, the complexity of the problem, the need to act quickly and the results obtained.
<b>Flat fee</b>	The flat fee is an amount determined in advance. It is important that the lawyer specify, from the very start, what that flat fee includes.
<b>Ceiling price</b>	The hourly rate applies until the ceiling price (maximum price) set with the lawyer has been reached.
<b>Project management</b>	Proven management method that consists of setting a price for all the activities related to handling a file
<b>Results-dependent</b>	The price is set based on the results obtained. (The lawyer then charges a percentage of what you will receive if a ruling is made in your favour.)
<b>Retainer</b>	Arrangements made with the lawyer to pay his fees according to a fixed period of time (on a monthly basis, for example)
<b>Fixed, hourly</b>	Fixed, hourly fee, regardless of who works on the client's case (if there are several lawyers in a firm working on a case)
<b>Value-added</b>	Fixed fee based on what the client perceives as the actual value of the service rendered by the lawyer
<b>Hybrid</b>	Hybrid billing is a combination of the above methods.

Source: Report entitled *La tarification horaire à l'heure de la réflexion*, Barreau du Québec, 2016.

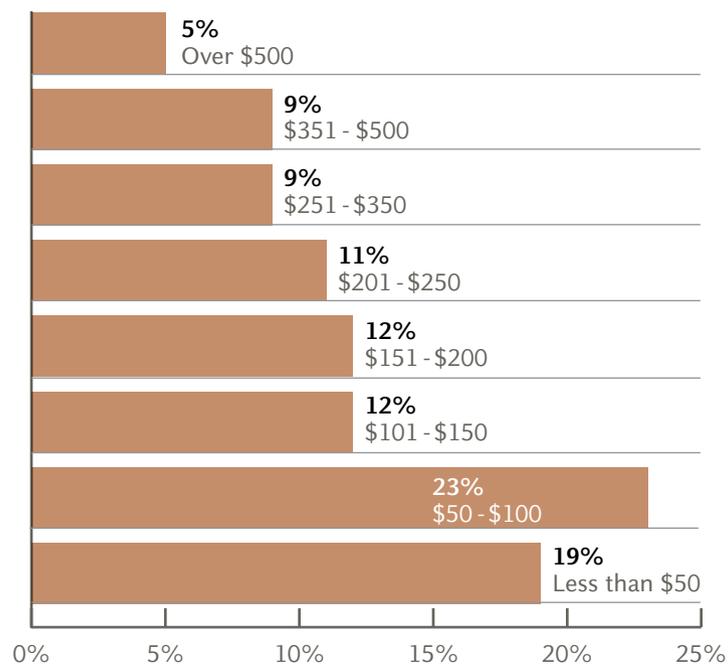
Further details and more statistics on the profession may be found online, in French, under "Publications", in *Barreau-Mètre | La profession en chiffres*, at [www.barreau.qc.ca](http://www.barreau.qc.ca).

## BILLING METHODS USED BASED ON 2013-2014 INCOME\*

Breakdown of the source of lawyers' income based on their billing method



## BREAKDOWN OF HOURLY FEES\*



\* Source: Barreau du Québec, optional questionnaire entitled *Évolution et tendances* on the 2014 annual registration form.

## HOW TO CHOOSE A LAWYER

Certain lawyers' associations or organizations offer referral services for finding a lawyer near your home or workplace and in the field of concern to you. Some 2,000 of the 25,500 or so lawyers in the Barreau du Québec have voluntarily registered with these various services. Most of these organizations provide you with the contact information of lawyers who, depending on where you are located, offer an initial 30- or 60-minute consultation free of charge or at a reduced rate.

**These referrals, however, do not constitute recommendations by the Barreau du Québec.**

### REFERRAL SERVICES

#### Greater Montréal

To obtain a referral for a lawyer by field of practice, phone 514 866-2490 or request a referral by email: [reference@barreaudemontreal.qc.ca](mailto:reference@barreaudemontreal.qc.ca)

A \$30 fee is charged for the initial 30-minute consultation.

#### Québec City, Beauce and Montmagny regions

To obtain a referral for a lawyer by field of practice, phone 418 529-0301 or fill out the online form on the Barreau de Québec's Internet site ([www.barreaudequebec.ca](http://www.barreaudequebec.ca)).

No fee is charged for the initial 30-minute consultation.

#### All other regions of Québec

To obtain a referral for a lawyer by field of practice, phone the telephone referral service of the Association des avocats et avocates de province, at 1 866 954-3528 (toll-free).

A \$100 fee (plus tax) is charged for one hour of consultation.

#### JurisRéférence referral service

JurisRéférence is a Web-based platform where you can search and easily find resources to suit your legal needs, including an online lawyer referral service offered by the partner regional Bars ([www.jurisreference.ca](http://www.jurisreference.ca)).

#### A referral service is also available in the following region:

##### Longueuil

450 468-2609, [barreau.longueuil@bellnet.ca](mailto:barreau.longueuil@bellnet.ca)

A \$50 fee is charged for the initial 30-minute consultation.

In addition, by consulting the Barreau's Website, you can find a lawyer-mediator to get you out of a deadlock situation of a civil, commercial, family or small claims nature.

If you are arrested, you have the legal right to call a lawyer. If you don't know a lawyer, you can take advantage of the Barreau du Québec's **Urgence avocat** emergency lawyer service that is free of charge and available 24 hours a day.

Another good way of finding a lawyer is through a recommendation from someone you know. However, check with the Barreau du Québec for free (at 1 844 954-3411) to make sure that person is actually authorized to practise law, has no disciplinary record and is insured under the Barreau du Québec's professional liability insurance plan.

An initial meeting with a lawyer doesn't commit you or the lawyer to anything. However, if you decide not to place your case in his hands, you must nevertheless pay for that consultation. If the lawyer doesn't accept to take on your case, it is advisable to ask him for a letter confirming his decision as well as the reasons why and stating that he has not kept any documents.

## TIPS FOR A BETTER RELATIONSHIP WITH YOUR LAWYER

### From the very first meeting

- ▶ Provide your lawyer with all the information you have, so that he can give you preventive advice or determine which information is relevant. You can do so without worry, as he is bound by professional secrecy.
- ▶ Ask the lawyer whether the situation can be settled through a participatory justice approach, for example, through mediation or conciliation, before resorting to the Court.
- ▶ Ask the lawyer how your case will be handled, what the various options and procedures are as well as their cost, so you can choose the most appropriate ones for your needs and budget.
- ▶ Make sure you clearly understand and don't hesitate to ask questions.
- ▶ Ask the lawyer to keep you informed on a regular basis about any progress in your case.
- ▶ Ask your lawyer to get your approval before taking any further steps that may result in substantial, unforeseen expenses.
- ▶ Discuss the various fee options and reach an agreement on the one that suits you best: hourly, fixed or percentage of the settlement.
- ▶ Together, clarify the billing dates and frequency that are best for you.
- ▶ Insist on detailed billing, including the number of hours worked and by whom, a description of the steps taken, out-of-pocket expenses, etc.

### TRUST ACCOUNT

When a client pays a lawyer a retainer—a sum of money in advance—it is deposited into a trust account in the name of the lawyer or his law firm. The funds in this bank account will be used solely for covering his fees and expenses relating to the client's case.

### PROFESSIONAL SECRECY

Professional secrecy is a fundamental right that a number of professionals, including doctors, notaries and lawyers, must respect. Within a client-lawyer relationship, professional secrecy is a privilege ensuring that any information you give your lawyer is kept confidential. It also applies to the verbal or written opinions that a lawyer gives you. Under professional secrecy, your lawyer is forbidden from revealing this information, even under questioning by a judge.

Professional secrecy comes within Québec's Charter of Human Rights and Freedoms. Its role is fundamental. It creates a climate of trust between you and your lawyer. It enables you to confide any information to him... even whatever you wouldn't dare tell your best friend!

However, there are exceptions, as in the case of any rule. For example, if a lawyer has reason to believe that his client may commit suicide or that another person may be seriously injured, he is then allowed to disclose confidential information.

### While your lawyer is handling your case

- ▶ Both of you should be realistic about what steps to take in order to win your case (for example, not spending \$2,000 to recoup \$1,000).
- ▶ Unless it is an emergency, write to your lawyer instead of phoning him.
- ▶ Prepare your questions and documents well before phoning the lawyer.
- ▶ For general updates on your case, contact the lawyer's administrative staff rather than the lawyer himself.

## **PARTICIPATORY JUSTICE: DISPUTE PREVENTION AND RESOLUTION (DPR) PROCESSES**

### **NEGOTIATIONS**

Negotiations are part of everyone's everyday life. You regularly negotiate with your spouse, your employer, your children or when you do business and, in most cases, you reach an agreement. It is on this basis that the justice system also uses negotiation techniques.

Negotiations are the foundation of all dispute resolution processes. They consist of trying to reach an agreement with the other party by discussing and agreeing to make certain compromises. All throughout the legal process, you may negotiate with the opposing party. You may even initiate negotiations before taking legal action.

In a number of cases, negotiations may lead to an out-of-court settlement. If that is the case, make sure all the details and all the conditions of the agreement are included in a written document signed by all the parties.

### **MEDIATION**

Mediation is a dispute resolution process that involves exploring solutions rather than trying to determine who is right and who is wrong.

The first condition for mediation to be carried out is for all the parties to accept and opt for the mediation process. This means that they agree to have another person – a neutral and impartial third party called a “mediator” – help them find a solution to their dispute. Contrary to a settlement conference, mediation may take place even if legal action has not been initiated.

### **COLLABORATIVE LAW**

Collaborative law is still little known and little used and is often confused with mediation and negotiation; nevertheless, it is a very distinct dispute resolution process that has proven its worth in the U.S.

In collaborative law, the people involved in a dispute and their lawyers must agree, in advance, and in a contract, that they will find a satisfactory solution without turning to the Court, failing which the lawyers will withdraw from the case. The parties must also reveal all necessary information for resolving the dispute and must sign a confidentiality clause in order to avoid having what is said in negotiations from being used at a later time. In the collaborative law process, the negotiation sessions may be held between the people involved, in the presence of their lawyer or solely between lawyers.

### **CONCILIATION AND THE SETTLEMENT CONFERENCE**

Conciliation is very similar to mediation; however, the conciliator generally doesn't propose any solutions, as the mediator does.

Within legal proceedings, the judge sometimes plays the role of conciliator during a special hearing called a “settlement conference”.

A settlement conference may be held at any stage of the legal process if these two conditions are met:

- ▶ legal action must have been taken
- ▶ both parties must give their consent to proceed

### **ARBITRATION**

Arbitration is a decisive process whose outcome will be final and binding (that is, without appeal). Arbitration is somewhat like a private trial. The arbitrator(s), who are chosen by the parties, take on the role of judge.

### **MEDIATION-ARBITRATION (MED-ARB)**

Med-arb is a process during which the parties reach an agreement, in advance, that specifies the mandate of the mediator (a neutral, third party) as well as the arbitration mandate in case the mediation process reaches a deadlock. The decision will then be final and binding.

More information on DPR processes and participatory justice may be found at [www.yourjustice.ca](http://www.yourjustice.ca).

## WHEN YOU RECEIVE YOUR LAWYER'S BILL

- ▶ You don't understand the bill you received and you have the impression that the fees charged don't correspond to the work that the lawyer has done for you? Before you do anything else, speak to the lawyer to ask him for clarifications on whatever aspects of the bill that you feel are unjustified. If you and your lawyer can't come to an agreement, you may then contact the Barreau du Québec's free conciliation service provided by its lawyers, who will act as a conciliator to help you find a solution. The bill will be examined in detail by the conciliator, who will try to get you both to settle out of court. With such a settlement, your bill may be maintained, reduced or even cancelled in exceptional circumstances.
- ▶ The request for conciliation must be made within 45 calendar days (not working days) of receiving your bill.

Make it a point of law  
to assert your rights

## LEGAL FEES INSURANCE... IT'S FOR YOU!

For about \$4 a month, legal fees insurance protects you against the hazards of everyday life. This coverage entitles you to unlimited assistance by phone in most fields of law. It also entitles you to financial aid in the event of specific disputes, to pay the fees of the lawyer of your choice in initiating legal action or defending yourself, including dispute prevention and resolution processes and the costs of consulting experts. Find out more from your insurer or broker! [www.legalinsurancebarreau.com](http://www.legalinsurancebarreau.com)

## CONTACT THE BARREAU IF YOU WANT TO:

- ▶ find a lawyer or a lawyer-mediator by field of practice and region
- ▶ check whether a lawyer is really a Barreau member in good standing
- ▶ find a lawyer in case of emergency if you have been arrested
- ▶ obtain contact information for referral services and benefit from a consultation at a reduced fee or, in some cases, even free of charge
- ▶ take advantage of conciliation/arbitration services in relation to a lawyer's bill
- ▶ consult the Registers of wills and mandates of the Barreau du Québec
- ▶ obtain more information on the Barreau's services to protect the public and ensure access to justice

## YOU HAVE THE RIGHT TO KNOW...

One of the programs within the television series *Le Droit de savoir*, co-produced by the Barreau du Québec and Télé-Québec (season 2), featured advice on meeting with a lawyer for the first time. This program can be viewed online on this TV series' Website at [www.ledroitdesavoir.ca](http://www.ledroitdesavoir.ca).

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Lawyers,  
experts in solutions.

**Barreau**  
du Québec

