



What is a quarrelsome litigant?

Jeanne is the mother of a three-year-old girl, Amélie. She decides to consult a legal aid lawyer in order to get a judgment granting her custody of her minor child and fixing rights of access for the father, given that he exercises his rights of access very sporadically.

George, the child's father, receives the pleadings on a Thursday afternoon. In response to these pleadings, he decides to seek shared custody of his daughter.

The trial takes place and the mother is awarded custody of her daughter. The father obtains rights of access every weekend from Friday evening to Sunday evening. Since he did not get shared custody of his daughter, George sends new pleadings to the mother. In the new pleadings, he asks that the judgment awarding custody to the mother be modified. The trial takes place and he loses. He files an appeal and subsequently loses the appeal. The fact that George multiplied proceedings in a short period of time means that he can be said to be a quarrelsome litigant. For example, a father who, within a period of five months (from July 23 to December 15, 2015) introduced 17 judicial proceedings, including a complaint to the judiciary and a complaint to the syndic of the Bar, was considered by the court to be a quarrelsome litigant.

How is this type of conduct characterized?

This type of conduct is referred to as querulousness. Querulousness is defined as the thirst for justice by an individual who exercises his right to take legal action in an abusive or unreasonable manner. The term "vexatious" is also used to refer to a litigant who abuses his right to go to court or seeks to harm others.

The courts have identified a number of characteristic traits that point to querulousness. They include the following¹:

- First, a quarrelsome litigant is stubborn and narcissistic;
- Second, he is usually the plaintiff rather than the defendant;
- Third, he multiplies vexatious proceedings, including against those within the legal system. In fact, it is not uncommon for these proceedings and complaints to be directed against lawyers, court personnel, or even judges themselves, who are accused of bias and unethical behaviour;

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* The information set out in this document is not a legal interpretation.

The masculine is used to designate persons solely in order to simplify the text.

¹ *Abus de droit, querulence et parties non représentées*, Yves-Marie Morissette



What is a quarrelsome litigant? (continued)

- Fourth, he often repeats the same argument via additional supplemental proceedings that seek the same result despite numerous previous failed attempts;
- Fifth, his legal arguments are both inventive and inappropriate. While they have the appearance of being legal arguments, they border on the irrational;
- Sixth, the repeated failure of these multiple recourses ultimately results in his inability to pay the legal costs he has been ordered to pay;
- Seventh, he appeals or applies for the revocation or judicial review of most, if not all, of the decisions rendered against him;
- Eighth, he represents himself.

What can be done to prevent this type of behaviour?

The law makes it possible to ask that an individual be declared a quarrelsome litigant.² Once an individual has been declared a quarrelsome litigant, he is prohibited from instituting a judicial application unless he obtains the authorization of the Chief Justice or a judge designated by the Chief Justice and unless he complies with the conditions the Chief Justice or the designated judge determines.³

This framework was established in order to filter out abusive litigants. It is important to understand that the legal provisions are intended to provide a framework for access to justice, not to prevent access to the courts, so as to preserve the integrity of the justice system.

The register of quarrelsome litigants is accessible on the website of the Ministère de la Justice du Québec at

<https://www.justice.gouv.qc.ca/en/programs-and-services/registers/public-registry-of-persons-found-to-be-quarrelsome-by-the-court-of-quebec/>

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² Articles 51 and following of the *C.C.P.*

³ Sections 68 and following of the *Regulation of the Superior Court of Québec in civil matters*