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Provisional Injunctions: Three Situations Highlighting Their Benefits for Companies

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A company may find itself confronted overnight with a dispute that threatens the continuity of its operations. In such a critical situation, every day, every hour even, becomes crucial. The provisional injunction offers companies the opportunity to act quickly by obtaining temporary measures without having to wait until a final judgment, which in some cases may not be rendered for several years.

Prior to examining practical examples, it is worth outlining the fundamental principles that govern this exceptional remedy.

First, a provisional injunction can be classified as either:

- Prohibitive: when it requires a person (natural or legal) to refrain from doing something or to cease an action, or;
- Mandatory: when it requires the execution of an action[1].

The provisional injunction, both prohibitive and mandatory, cannot exceed 10 days without the consent of the parties[2]. To determine whether it should be granted, courts consider the following four criteria: appearance of right, irreparable or serious prejudice, balance of inconvenience, and urgency[3].

In addition, a mandatory provisional injunction is, in general, more difficult to obtain than a prohibitive provisional injunction. Indeed, a mandatory provisional injunction requires proof of a strong *prima facie* case[4], whereas a prohibitive provisional injunction requires only to show that there appears to be a right or that a serious issue must be decided[5].

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[1] 510 C.C.P.
[2] 510 C.C.P.
[3] *Aqualandsis Inc.* c. *4291034 Canada Inc.*, 2005 CanLII 35450 (QC CS), par. 23.
[4] *R.* v. *Canadian Broadcasting Corp.*, 2018 SCC 5, par. 15.
[5] *Clinique juridique itinérante c. Procureur général du Québec - Ministère des Transports et de la Mobilité durable du Québec*, 2025 QCCS 2087, par. 45.

In this context, three situations clearly illustrate how effective a provisional injunction can be in urgently protecting a company's interests.

1) Ensuring compliance with non-competition, non-solicitation, and confidentiality obligations

Employees often have access to confidential information in the course of their employment that should not fall into the hands of a competitor. These include, for example, customer lists, sales prices, operational methods, marketing or development plans or financial data.

Beyond confidentiality, it is essential that former employees comply with the non-competition and non-solicitation clauses in their employment contracts, otherwise a company could suffer disastrous consequences. Such consequences can be, for example, the misappropriation of customers or the recruitment of key employees.

If a company discovers that a former employee is violating its confidentiality, non-competition and/or non-solicitation obligations, it can use the provisional injunction to quickly stop these violations[6].

2) Regulating picketing during a strike or lockout

A provisional injunction can help regulate picketing during strikes or lockouts. For example, a Superior Court judge once ordered a union to stop picketing and protesting on an employer's property. However, the judge allowed the union to picket in a specific area identified on a plan. In addition, as part of this decision, the judge prohibited the union from blocking or restricting visitor access, occupying parking lots and setting up unauthorized tents or temporary structures[7].

3) Force delivery of critical parts to avoid a production stoppage

A supplier's refusal to meet agreed deliveries can go far beyond a simple logistical setback. In some cases, it can cause production to come to a complete halt, leaving the company without resources to respond to its customers and jeopardizing its reputation. The provisional injunction then makes it possible to force the delivery of the parts held by the supplier, thus stabilizing the situation while a new supplier is mobilized[8].

In short, the provisional injunction enables a company to react quickly, whether to protect trade secrets, regulate picketing, or ensure the delivery of essential components.

For more information, please do not hesitate to contact a member of our team, who will gladly provide guidance.

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[6] See, for example: *Pivotal Payments Corporation c. Kukura*, 2016 QCCS 3969 [leave to appeal dismissed, 2016 QCCA 1391].
[7] *Société zoologique de Granby inc. c. Syndicat national des salariés-es de la Société zoologique de Granby (CSN)*, 2024 QCCS 3038.
[8] *Daher Lhotellier Aérotechnologies SAS* c. *9084-4713 Québec inc. (Delastek Composite*), 2007 QCCS 766.