



It's contradictory for Quebec residents to argue that a foreign court doesn't have the power to decide a lawsuit against them, while bringing up points the court could use to resolve the dispute in their favour, the Supreme Court has ruled.

Laws are local. A law passed in one place doesn't automatically apply somewhere else. This means you can't take a court judgment from one place (e.g., where you live) and get it automatically enforced in another (e.g., where someone who owes you money lives). Because laws are local, courts only have "jurisdiction" (power) in their own territories. But life and business today cross borders, so there are rules about how to deal with foreign court decisions fairly and efficiently. These rules are part of a branch of law known as "private international law" or "conflict of laws."

For a foreign decision to be enforced in Quebec, a Quebec court must decide to accept (or "recognize") it in the province. This doesn't mean looking at all the facts and arguments again. It just means the Quebec court will apply Quebec rules to decide if the foreign court had jurisdiction over the Quebec resident. Foreign court decisions will usually be recognized, with some exceptions.

One way a foreign court's decision can be accepted and enforced in Quebec is if the Quebec resident has recognized the foreign court's authority. In legal terms, this is called "submitting to the jurisdiction." If the Quebec resident didn't submit, the Quebec court may decide not to enforce the foreign judgment. In such a case, the person suing the Quebec resident won't be able to be paid in Quebec, even though the foreign court has ordered it. That means it's important to know whether a Quebec resident who is sued abroad has submitted to the foreign court's jurisdiction.

But this isn't always clear. You can submit explicitly by saying so, but you can also submit implicitly by your actions. Judges and legal thinkers have disagreed about which actions will be considered signs of submission. In particular, they've disagreed about whether someone *really* submits when they argue about the "merits" to avoid a bad outcome while also saying the foreign court doesn't have jurisdiction. (The "merits" are the facts and legal substance of the case.)

This was the issue in Mr. Barer's case. Mr. Barer was a Quebec resident. He was president of two companies, one based in Montreal and one based in the US state of Vermont. Knight Brothers was based in the US state of Utah, where the Vermont-based company was involved in a project. After a contract dispute over the project, Knight Brothers sued Mr. Barer and both of his companies in a Utah court.

Mr. Barer asked the Utah court to summarily dismiss the lawsuit against him (that is, to dismiss it without a full hearing). He said the court didn't have jurisdiction, but also argued that there were legal reasons why Knight Brothers' claim couldn't succeed. The judge rejected his motion to dismiss and Mr. Barer didn't defend himself any more. The Utah court eventually ruled for Knight Brothers. Because Mr. Barer lived (and had assets) in Quebec, Knight Brothers asked a Quebec court to recognize the decision.

The trial judge said the decision could be recognized in Quebec. It said Mr. Barer had submitted to the Utah court's jurisdiction by arguing the merits of the case in his motion to dismiss. The judge said Mr. Barer had to pay Knight Brothers over \$1.2 million. The Court of Appeal dismissed his appeal.

The majority at the Supreme Court agreed that the Utah judgment should be recognized in Quebec. It said defendants submit to a court's jurisdiction when they make arguments that (if accepted) would resolve the dispute – or part of the dispute – on its merits. It would be unfair and inefficient if someone could try to convince a foreign court on the merits while still being able to challenge jurisdiction at home if they didn't like the result. When Mr. Barer argued the merits of the case in his motion to dismiss, he submitted to the Utah court's jurisdiction under Quebec law. If the Utah court had accepted this argument, it would have decided in his favour on that issue and Knight Brothers would have had to accept it. Mr. Barer made a strategic choice, and he had to accept the consequences.

This case was specific to Quebec law, found in Quebec's *Civil Code*. The *Civil Code* applies to non-criminal legal issues in Quebec.

Breakdown of the Decision: *Majority:* Justice Clément [Gascon](#) dismissed the appeal (Chief Justice [Wagner](#) and Justices [Abella](#), [Moldaver](#), [Karakatsanis](#), [Rowe](#), and [Martin](#) agreed) | *Concurring:* Justice Russell [Brown](#) said Mr. Barer had not submitted to the Utah court’s jurisdiction, but the Utah court still had jurisdiction for other reasons | *Dissenting:* Justice Suzanne [Côté](#) said that Mr. Barer didn’t submit to the Utah court’s jurisdiction and the Utah court didn’t have jurisdiction any other way, and so would have allowed the appeal

More information (case # 37594): [Decision](#) | [Case information](#) | [Webcast of hearing](#)

Lower court rulings: [decision on application](#) (Superior Court of Quebec) | [decision on application](#), [appeal](#) (Quebec Court of Appeal)
