CAS PARTICULIER DU FARDEAU DE LA PREUVE

<u>Principe</u>: Prépondérance des preuves (50% + 1) (art. 2804 CcQ) pour la personne qui veut faire valoir un droit (art. 2803 CcQ).

Allégement du fardeau

Présomptions (art. 2846 CcQ) : On peut tenir pour acquis quelque chose sans en faire la preuve.	Deux types : - Légales (tirées de la Loi) - Factuelles (déduite par le tribunal)
Actes authentiques (art. 2813 CcQ et ss.): Pas besoin de prouver que la preuve est vintage (authentique).	Fait preuve de son contenu et de sa confection.
Connaissance d'office: Tout ce qu'on peut tenir pour acquis que le tribunal connaît et donc, pas besoin d'en faire la preuve.	Trois catégories : - Le droit en vigueur au Québec (art. 2807 CcQ) - Le droit international si allégué (art. 2809 CcQ) - Les faits notoires (art. 2808 CcQ)

Augmentation du fardeau

Injonction Anton Piller: Divulgation complète des faits favorables ou non, vérification de la sincérité des représentations des clients.	Fardeau très lourd comme c'est attentatoire à la vie privée de la personne : fouille, persécution, etc.
Clause de non-concurrence (art. 2089 CcQ) : doit être raisonnable dans sa durée, sa territorialité et son genre de travail concerné.	Fardeau à l'employeur pour démontrer la validité de la clause.
Outrage au tribunal (art. 57 à 62 Cpc)	Preuve hors de toute doute raisonnable (comme en droit pénal).
Actes requérant corroboration (art. 2844 CcQ) : Malgré un témoignage, la preuve des faits n'est pas fait (mauvaise crédibilité	Ex. témoin non-crédible, témoin enfant, preuve distincte d'authenticité.

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