

BIG CASE MANAGEMENT HEARINGS OPINION GUIDELINE

TERMS & CONDITIONS FOR COUNSEL IN BIG CASES

As counsel conducting big cases you are required to comply with the following terms and conditions. A breach of any of these provisions may result in the non payment of an account, or the delay in payment of a account.

1. To provide the Case Manager/ Area Director with a comprehensive letter of opinion setting out all of the relevant facts and legal issues before the budget is established as well as periodic updates with respect to the proceeding.
2. To inform the Case Manager/ Area Director in a timely manner of:
 - new issues or significant events that will or could impact on the budget;
 - all planned pre-trial motions;
 - Judicial Pre-trials and whether counsel thinks it would be beneficial for the Case Manager/ Area Director to attend a JPT;
 - When pre-trial negotiations and plea negotiations are underway;
 - when 80% of the budget has been expended;
3. To complete and submit all budget forms requested by LAO throughout the proceeding and in a timely manner;
4. To request a reasonable budget;
5. To manage the authorized budget efficiently, effectively and in accordance with the highest professional standards;
6. To provide the client with reasonable and prudent advice on all matters including, where relevant, advice on plea negotiations;
7. To properly use preparation time in relation to trial date;
8. To properly allocate authorized preparation time between yourself and second counsel;
9. To submit monthly accounts and a complete account for all work done to date within 30 days of the end of the preliminary inquiry and/or trial.
10. To provide the Case Manager/ Area Director, when requested, with a copy of all accounts re: BCM billing;
11. To immediately advise of any requests for a change of solicitor. Counsel shall not apply to get off the record before first advising the Case Manager/ Area Director, and before the change request is granted. Counsel may be required by the Case Manager/ Area Director to meet with the client to discuss the potential for resolving any issues between them;
12. To provide the Case Manager/ Area Director with estimates for disbursements;
13. In order to most effectively use preparation time, to canvass LAO LAW as to the availability of research support

- for the case, and to use LAO LAW general memoranda wherever possible on the various issues that arise in the client's case including, but not limited to, pre-trial motions;
14. To ensure that a meaningful and usable work product is transferred to another lawyer in the event of a successful change of solicitor application (failure to provide meaningful and usable work product may result in non-payment for work done on the file);
15. To advise LAO in advance if there is a risk that the case will cost more than the amount of the allocated budget;
16. To advise LAO of any change in circumstances that may result in less than the full amount of the allocated budget being expended.
17. To avoid conflicts of interest that could result in an order removing counsel i.e. representation of co-accused or crown/defence witnesses in the past or present case.

GENERAL MATTERS

Certificate Number:				
Client Name:				
Charge(s) subject to this budget:				
Date of offences(s)				
Date of original information. Please attach a copy:				
Counsel Name:			Tier Level:	
Counsel Contact Information:				
Are you original counsel?	Yes:	<input type="checkbox"/>	No:	<input type="checkbox"/>
Was there a private retainer?	Yes:	<input type="checkbox"/>	No:	<input type="checkbox"/>
If yes, please provide specific details including your hourly rate and the total amount billed. Please also attach copies of all accounts with your opinion.				
LAO Case Manager / Area Director Name:				
Names of co-accused and their counsel:				
To the best of your knowledge, please indicate				

which co-accused are legally aided:						
Have counsel or associates ever represented any of the co-accused or Crown/defence witnesses?		Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	
If yes, is there consent from the crown/client/witnesses?		Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	
Location (Town/City) and Court this matter is proceeding in:						
Name(s) of assigned Crown Attorney(s):						
Next court date:		Last Court Date:				
Stage of proceedings:						
Project name (if any):						
Is it a retrial? If so, please include a copy of judgement and reasons.			Yes:	<input type="checkbox"/>	No	<input type="checkbox"/>
Is the case high profile in your area?			Yes:	<input type="checkbox"/>	No:	<input type="checkbox"/>
CASE DETAILS						
<p>Please provide a reasonably detailed description of the events surrounding the charges against your client. Also, please attach a copy of the crown/police synopsis if it provides a reasonable outline of the allegations.</p>						

What are the strengths and weaknesses of the case against your client?

If your client has one or more co-accused please indicate as much as you can about how, and why, your client fits in relation to them according to the Crown's theory of criminal liability:

JUDICIAL INTERIM RELEASE				
Date of arrest or apprehension:				
Date of incarceration in respect of offences alleged:				
Is the accused required to be detained in custody in respect of any other matters?	Yes:	<input type="checkbox"/>	No:	<input type="checkbox"/>
<u>RELEASE FROM CUSTODY</u>				
▪ Has the accused been released from custody in respect of the offence(s) alleged in the information / indictment?	Yes:	<input type="checkbox"/>	No:	<input type="checkbox"/>
▪ Upon what form of release?				
▪ Since released has the accused been re-incarcerated in respect of the offence(s) alleged in the information / indictment?	Yes:	<input type="checkbox"/>	No:	<input type="checkbox"/>
If yes, please provide details:				
PROCEDURAL INFORMATION				
<u>DISCLOSURE</u>				
a. Please describe the volume, format and nature of the disclosure:				
b. Is further disclosure required? Please provide details:				
c. Are there any problems with disclosure? Please provide details:				
<u>RESOLUTION</u>				
Likelihood of early resolution; has an offer of resolution been discussed/negotiated? If so what were the terms and what were the client's instructions?				
<u>EVIDENCE TO BE CALLED</u>				
▪ By the Crown:	Police: <input type="checkbox"/> #:	Civilian: <input type="checkbox"/> #:	Expert: <input type="checkbox"/> #:	
If expert, please provide details:				
▪ By the Defence:	Police: <input type="checkbox"/> #:	Civilian: <input type="checkbox"/> #:	Expert: <input type="checkbox"/> #:	
If expert, please provide details:				
<u>PROCEDURAL ISSUES</u>				
Unusual motions prior to hearing (i.e. other than motions to exclude witnesses and bans on publication?) Please provide details and anticipated length of such motions:				

PREPARATION REQUIRED			
Has a judicial pre-trial been held?	Yes:	<input type="checkbox"/>	No: <input type="checkbox"/>
If so, have dates for the hearing been set by the court? Please provide details and the total number of days:			
What, if any, authorizations have you received to date from the Area Director (initial hours for example)?	Hours		
What have you billed and been paid to date on this certificate?			
Estimated number of counsel preparation hours expended to date?	Hours		
Estimated total number of hours requested for preparation before hearing (inclusive of any time already spent):	Hours	\$ (Hours x Rate)	
Estimated number of counsel preparation hours requested during hearing on a <i>per diem</i> basis:	Hours	\$ (Hours x Rate)	
<u>SECOND COUNSEL</u>			
a. If counsel is seeking second counsel please provide the proposed co-counsel's name and tier rate and number of expected days in court:			
Second counsel preparation hours, if hours noted above for the hearing are not to be shared.	Hrs	\$ (Hrs x Rate)	
Second counsel per diem hours, if hours noted above during the hearing are not to be shared.	Total Hrs Per Diem (Hrs Per Diem x Crd Days)	\$ (Hrs x Rate)	
<u>TOTALS</u>			
ESTIMATED TOTAL PREPARATION FOR THE HEARING (INCLUDES ALL PREP BEFORE AND ALL PER DIEM PREP)	Hrs	\$	
ESTIMATED TOTAL COURT TIME FOR THE HEARING (ESTIMATE 5 HOURS/ DAY)	Hrs	\$	
SECOND COUNSEL ESTIMATED TOTAL COURT TIME FOR THE HEARING (ESTIMATE 5 HOURS/ DAY AND NOTE THAT JR PAID AT \$58.17/HOUR)	Hrs	\$	
TOTAL ESTIMATED COST (FEES)	Hrs	\$	
<u>OTHER INFORMATION AND DISBURSEMENTS</u>			
Can a student, paralegal or junior associate perform any of hearing preparation?	Yes:	<input type="checkbox"/>	No: <input type="checkbox"/>
Provide details:			

Can any of the pre-trial preparation be divided among counsel for co-accused?	Yes:	<input type="checkbox"/>	No:	<input type="checkbox"/>
Proved details:				
Estimated costs of private investigators:	\$			
Estimated costs of expert witness(es):	\$			
Estimated costs of travel and mileage (including witness travel):	\$			
Other (please specify)				
1.	\$			
2.	\$			
3.	\$			
4.	\$			
TOTAL ESTIMATED COSTS OF DISBURSMENTS:	\$			

EXPECTED OUTCOME

- a. Likelihood of committal:
- b. Likelihood of conviction and expected sentence:
- c. Is it likely that the Crown will bring a dangerous/long-term offender application if convicted?

BILLING REQUIREMENTS

Before submitting an account we would ask you to please familiarize yourself with our BCM billing tips located on our website at www.legalaid.on.ca under Information for Lawyers and our revised Tariff and Billing Handbook which is located under Resources. Please note that we now require all accounts submitted to be typed.

A budget sets a number of hours that counsel may bill as preparation time. Generally counsel is also allocated some hours of preparation time for every day in court. Court time means court time spent in a contested preliminary inquiry or court time spent in a contested trial or guilty plea through to the sentencing phase. Counsel should clearly indicate what time billed on the account was for preparation and what time was spent in court. Counsel should summarize the total preparation hours and the total court hours at the end of the detailed paper account.

Entering your Account Online

When entering your account online, you must enter your court days and court time accurately in order for the account to be processed expeditiously. Failing to enter the account accurately will delay payment, as we are required to re-enter the account internally in order to re-process it correctly.

As of October 2009, it will be mandatory for you to submit your account in electronic format through our *Online* billing system, flag discretion and attach your dockets and disbursement invoices.

Should you have any questions regarding the appropriate way to enter your account online, please do not hesitate to contact our Lawyer Service Centre at **Telephone:** (416) 979-9934 **Toll free:** 1-866-979-9934. The Lawyer Service Centre Staff are here to assist you in entering your online accounts accurately.

Accurate Court Time

Please note that for purposes of budget or tariff interpretation, court time commences when the court convenes. Counsel can bill court time from the time court is set to convene as counsel is required to be in court at that time.

Court time means time where Court is actually in session and not waiting time prior to the Court commencing. Court time does not include lunch, or time spent unpacking materials at the beginning of the day or packing up materials at the end of the day. That time is calculated as preparation time.

At a minimum, we would ask you to provide, in your dockets, the proceeding, the level of Court, the address of the Court, the Courtroom Number and the name of the Judge before whom the matter is heard. It is helpful to provide a description of the evidence heard or the legal argument made on the Court day.

Detailed Preparation Time

With respect to preparation time, we would ask you to provide us with a description of work billed. Simply indicating that your hours were used for "Preparation" or "Research" is not adequate. Your dockets must contain sufficient detail to allow LAO to ascertain what work was done on the date docketed. Detailed dockets are necessary for fiscal accountability and statistical purposes, to allow comparison between work done on BCM files and files where counsel is requesting discretion. This information assists in future budget setting.

Billing For Second Counsel

You, as the acknowledging solicitor, are responsible to pay co-counsel or agents regardless of whether or not you bill over the set BCM budget.

The budget allows for shared preparation time. You must co-ordinate billing with co-counsel. When you submit your own account for work done during a calendar time period, you must also submit the co-counsel's account for work done during the same calendar time period. When billing court days where co-counsel attended with you, you must submit one account for yourself and for co-counsel. Indicate the number of calendar court days and the total number of court hours (counsel and co counsel).

For instance, if both counsel attended court on May 1, 2008 and May 2, 2008, and each counsel billed 5 hours of court on each day, the number of court days would be 2 days and the amount of court time would be 20 hours, as there were 2 calendar days and 20 person hours in court.

Billing Schedule

All BCM accounts have to be prepared by a BCM adjuster and reviewed by a staff lawyer. Therefore, the fewer accounts that you submit, the faster all accounts will be settled. It is preferable if counsel bills one account for the preliminary hearing and one account for the trial, for matters concluded within 30 days. For lengthy matters, we would ask that you bill monthly. Please do not bill more frequently than one a month. To continue to accept frequent interim accounts operates to the detriment of compliant panel members as the processing of frequent interim accounts slows down the processing of all accounts.

BCM Billing Tips are available at http://www.legalaid.on.ca/en/info/bcm_forms.asp.

I CONFIRM THAT THIS APPLICATION HAS BEEN ACCURATELY COMPLETED TO THE BEST OF MY KNOWLEDGE. I HAVE READ AND AGREE TO ABIDE BY THE EXPECTATIONS OF COUNSEL AND BILLING REQUIREMENTS.

I AGREE THAT I WILL NOT BILL LAO FOR ANY REMOVAL APPLICATION FOR CONFLICT BROUGHT BY THE CROWN OR THE COURT OR COUNSEL FOR ANOTHER CO-ACCUSED AS A RESULT OF MY PREVIOUS REPRESENTATION OF A CO-ACCUSED. I AGREE THAT I WILL INDEMNIFY LAO FOR THE COST OF MY TRIAL (OR PRELIMINARY INQUIRE) PREPARATION TIME SHOULD I BE REMOVED FROM THE RECORD FOR CONFLICT AS A RESULT OF MY PREVIOUS REPRESENTATION OF A CO-ACCUSED.

I AGREE

DATE

COUNSEL SIGNATURE

PLEASE PRINT NAME

SOLICITOR NUMBER