

# B3: Better Billing Bulletin

Issue #54 | November 1, 2018

## Transcripts for the Court of Appeal and Divisional Court

The Court of Appeal for Ontario recently released the decision of Watt J.A. in the matter of *R. v. C.G.* ONCA 751, which was a motion for directions with respect to the fees payable to Authorized Court Transcriptionists (ACTs) for copies of transcripts required for appeals to the ONCA and Divisional Court. In particular the decision focused on fees for transcripts where the originals were previously prepared for trial.

The decision places the onus on the Authorized Court Transcriptionist (ACT) to provide notice to the party ordering trial transcripts of their intention to charge \$0.55 per page per copy for appeal transcripts, and to secure the agreement of the ordering party prior to accepting the order. If the ACT is not prepared to use the Queen's Printer, who will prepare the copies at no cost to the ordering party or the ACT, to prepare necessary copies for the appeal, the ordering party is free to choose another ACT to prepare the trial transcripts.

In the absence of the notice and agreement, the copies for the appeal will be prepared by the Queen's Printer at no charge to the ACT or ordering party.

Counsel ordering trial transcripts during a trial should be mindful that their decision in choosing an ACT to prepare the transcript will directly impact future transcript costs should an appeal be necessary. Because Legal Aid Ontario has a mandate to responsibly use public funds on behalf of low-income clients, counsel authorized to order trial transcripts during a trial, or for an opinion, on a Legal Aid certificate must only order from ACTs who agree to use the Queen's Printer for appeal transcripts. Future transcript authorizations from LAO will advise counsel of this requirement.

In cases where original transcripts or portions of transcripts were prepared prior to an appeal, LAO's policy has not changed. LAO will continue to pay for one copy of the previously prepared transcripts at the copy rate of \$0.55 per page. The transcriptionist will notify the Queen's Printer who will provide the remaining copies free of charge.

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# Account Submission Identifier

*Legal Aid Online* is an automated payment system that allows panel members to generate their own certificate payments without prepayment review by LAO staff. The automated payment system allows LAO to pay approximately 75% of our accounts automatically within 21 days. As a result of this automated payment process, there is an onus on counsel to ensure the accuracy of the accounts and LAO requires them to review both their detailed dockets and their online account for accuracy prior to submission.

LAO recognizes that administrative efficiencies often require that the entry of the online account be delegated to support staff. Where the entry of the online account has been delegated, the staff member entering the account must select the “Submitted by:” radio button and is required to provide their name, phone number and email. The name entered must be the name of the staff member entering the account, not the firm name or counsel’s name. Please note that this information will not appear when a client copy of the account is printed from Legal Aid Online.

If the acknowledging lawyer is submitting the account they need only select the “Submitted by Acknowledging Lawyer” radio button.

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## Reporting Costs and Settlements Online

Costs awarded are the property of LAO (*LASA, s. 46(4)*). When costs are awarded and not recovered, it is the responsibility of counsel to protect LAO’s interests.

When remitting accounts, counsel are obligated to declare both settlement and cost awards, even if these awards are not realized and/or received. Cost awards and settlements, paid or not, should be declared when submitting an account. Any and all funds in trust, cost awards, settlement funds, and funds held in dispute (i.e.: family law matters) should be declared in your account submission.

Counsel are obligated to advise LAO of cost awards and settlements immediately, even if payment of costs and/or the settlement remain outstanding.

## Uncollected Awards

The “Yes” radio button should be selected for the Costs and/or Settlements awarded with the amount awarded entered in the appropriate field.

## Collected Awards

The “Yes” radio button should be selected for the Costs and/or Settlements awarded with the amount awarded entered in the appropriate field and the amount in trust entered in the appropriate field. Note – different amounts can be entered in the Amount Awarded and Amount in Trust fields to reflect partial recovery of an award.

Screenshot highlighting radio button and the amount in trust fields

If counsel is not planning on billing an account, the award should be reported to Lawyer Services and Payments via the communications tab on Legal Aid Online advising of a costs award or settlement, impending or paid.

If a cost award remains outstanding, please also include:

- the Issued Order awarding costs;
- the Assignment of Judgment for Costs in favour of LAO (in the event the costs are not payable directly to LAO); and
- the letter to the judgment debtor advising the costs are the property of LAO, and if applicable, enclosing a copy of the Assignment of Judgment for Costs.

If a settlement award is impending, please remit the Minutes of Settlement and/or Order or Endorsement.

The above noted steps will aid in addressing accounts that are “under consideration” solely as a result of declaring a costs/settlement and will ensure that instructions with respect to settlements are provided in a timely manner.

For more information on Costs and Settlements, please refer to Chapter 6 of The Tariff and Billing Handbook and the May 2016 edition of the B3.

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## Billing Tutorials

Legal Aid Ontario is developing billing demonstration videos meant to supplement your review of the Tariff and Billing Handbook. The first of these videos, how to submit a civil account, is now available on our website.

### Questions?

Please let us know if you have questions or if there are topics you'd like to see us cover by contacting the Lawyer Service Centre at [pl-lsc@lao.on.ca](mailto:pl-lsc@lao.on.ca)



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