

# Big Case Management: Trial opinion guideline

Application form for cases that have gone to trial.

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## Section 1: General information

### Client information

Client name:

Certificate #:

Charges subject to this budget:

Date of the offence:

Location of town/city and court  
where this case is proceeding:

What are the dates set for the trial?

When were trial dates set?

Is this a retrial?      Yes      No

If yes, please provide a copy of any relevant judgements.

Does this case involve any of these considerations?

- |   |     |    |         |
|---|-----|----|---------|
| • Does your client have any mental health issues?               | Yes | No | Unknown |
| • Does your client have immigration issues?                     | Yes | No | Unknown |
| • Does your client require the use of an interpreter?           | Yes | No | Unknown |
| • Does your client's case have broader public interest aspects? | Yes | No | Unknown |

If yes to any of the above, please provide details:

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## Counsel information

Name:

Solicitor #:

Tier level:

Complex Case Rate (CCR):      Yes      No

Contact:      Address:      Unit #:

Town/City:      Province:      Postal code:

Phone:

Email:

Was there a private retainer?                      Yes              No

If yes, for what amount \$:

If yes, for what services?

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### **Co-accused information**

Are there any co-accused?                      Yes              No

If yes, enter the name(s) of co-accused and lawyer(s):

Adverse interest?              Yes              No

Has counsel or counsel's firm ever represented any of the co-accused or potential Crown / Defence witnesses?                      Yes              No

If yes, is this an issue?              Yes              No

Have all appropriate parties consented to ongoing representation?              Yes              No

Name(s) of assigned Crown  
attorney(s):

Project name (if any):

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## Section 2: Case details

Please provide the following:

- Judicial pre-trial conference reports (filed by both Crown and Defense)
- Crown synopsis
- Reasons for committal (if available)

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

1) Theory of Crown and evidence in support:

## 2) Theory of defence and evidence in support

### **Witnesses**

How many witnesses are expected to be called?

Please provide a brief summary of the witnesses (if possible):

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## Section 3: Judicial interim releases

Date of arrest or apprehension:

Date of incarceration in respect to offences alleged:

Has the accused been released from custody in respect to the offence(s) alleged in the information/indictment?	Yes	No
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If yes, what are the terms of release?

Is the accused detained in respect of any other matters?	Yes	No
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If yes, please provide details:

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## Section 4: Procedural information

### Preliminary hearing

Were you the original counsel?      Yes      No

Did you personally conduct the preliminary inquiry for the defence?      Yes      No

If no, who conducted the preliminary inquiry for the defence?

Length of preliminary hearing (in court days):

- |   |     |    |
|---|-----|----|
| • Was the hearing of any or all evidence at the preliminary hearing waived pursuant to subsection 549(1)?                 | Yes | No |
| • Was the accused ordered to stand trial for the offences charged in the information?                                     | Yes | No |
| • Was the accused ordered to stand trial for additional or other indictable offences in relation to the same transaction? | Yes | No |
| • Was the accused discharged of any offences on the information?  | Yes | No |
| • Is the transcript of the preliminary hearing available?   | Yes | No |

Is the Crown conducting the trial also the preliminary inquiry Crown?	Yes	No
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### Resolution

Is counsel seeking to resolve the case?      Yes      No

If yes, please comment on the likelihood of this:

Is it likely that the Crown will bring a dangerous/long-term offender application if convicted?                      Yes                      No

What are the likely consequences of a conviction after the trial?

## Mode of trial

Has the accused elected trial by:                      Judge alone                      Judge and jury

Is a re-election for trial:                      Likely                      Unlikely

## Disclosure

Please provide concise details of the volume and type of disclosure materials received to date:

### Audio recordings

- Length of recordings (hours/minutes):
- Transcribed?                      Yes                      No

### Video recordings

- Number of recordings (tapes, DVDs, files):
- Length of recordings (hours/minutes):
- File size of recordings (MB / GB)
- Transcribed?                      Yes                      No



### Crown expert reports

- Number of expert reports:
- Please provide some detail with respect to the findings of the reports

### Hard copy pages

- Number of hard copy pages:

Other (please provide details)

Is further disclosure required?	Yes	No
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If yes, please specify:

Has it been requested?	Yes	No
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Have there been any challenges with disclosure?      Yes      No

If yes, please provide details (select all that apply):

Searchability

Availability

Transcription

Other

If other, please specify:

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## Section 5: Procedural issues

### Directed verdict

Will an application likely be made at the conclusion of the prosecutors' case for a directed verdict?      Yes      No

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## Section 6: Preparation required

How many preparation hours have been docketed to date but not yet billed to LAO?

How many preparation hours have been authorized to date?

### Pre-trial motions

An application for pre-trial motions funding must satisfy LAO that the motion is a justifiable expenditure of public funds. In order to do this, LAO must consider both the individual application and the funding available for case management.

Please consider the following when outlining the motions below:

- What effect would the motion have on the overall length and cost of the proceedings?
- Is the budget request appropriate?
- Would a reasonable private-paying client spend his or her own funds on this motion?

Pre-trial motion #1:

In counsel's opinion does the motion have a reasonable prospect of success?

Yes

No

How does the motion materially advance the client's defence?

Hours:

x Rate \$

= Total \$

Pre-trial motion #2:

In counsel's opinion does the motion have a reasonable prospect of success?

Yes No

How does the motion materially advance the client's defence?

Hours:                      x Rate \$                      = Total \$

Pre-trial motion #3:

In counsel's opinion does the motion have a reasonable prospect of success?

Yes No

How does the motion materially advance the client's defence?

Hours:                      x Rate \$                      = Total \$

## General trial preparation

Please describe in detail how you will spend general preparation hours: (e.g.: preparation for cross, preparation of expert witnesses, preparing client to testify, closing arguments, written submissions, etc.)

Hours:                      x Rate \$                      = Total \$

## Second counsel

If you are seeking second counsel please provide the proposed co-counsel's name, tier rate and number of expected days in court.

For what reason(s):

Level of expert evidence

Length of proceedings

Mentorship opportunity

Previous relationship with client

Volume of disclosure

Other (please specify)

## Totals

Estimate	Hours	Cost
<b>Estimated number of per-diem hours</b> Estimate 4 hours per day at respective tier rate <ul style="list-style-type: none"> <li>4 hours per day or 3 hours per day if co-counsel is requested</li> </ul>		\$
<b>Second counsel estimated number of per-diem hours</b> Estimate 3 hours per day at respective tier rate		\$
<b>Estimated total court time for pre-trial motions and trial proper</b> Estimate 5 hours per day at your respective tier rate		\$
<b>Second counsel estimated total court time for pre-trial motions and trial proper</b> Estimate 5 hours per day at their tier rate		\$
<b>TOTAL estimated cost (fees)</b>		\$

## Other information and disbursements

Estimate	Cost
Estimated cost of preliminary hearing transcripts	\$
Estimated cost of private investigations	\$
Estimated costs of expert witness(es)	\$
Estimated cost of expert reports	\$
Estimated costs of travel and milage (including witness travel)	\$
Other costs (please specify)	\$
<b>TOTAL estimated costs of disbursements</b>	\$

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## Billing requirements

Before submitting an account, please familiarize yourself with our BCM Billing Tips, the revised Tariff and Billing Handbook and the Disbursements Handbook which is located in the *For legal professionals* section of the Legal Aid Ontario [website](#).

### Entering your Account Online

As of October 2009, it is mandatory for you to submit your account in electronic format through LAO's Online billing system, 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 the LAO Lawyer Service Centre at Telephone: (416) 979-9934 Toll free: 1-866-979-9934. The Lawyer Service Centre Staff will assist you in entering your online accounts accurately.

### Accurate Court Time

A budget on a BCM Case sets a number of hours counsel may bill as preparation time. Generally counsel is also allocated some hours of preparation time for every day in court. This budget is inclusive and not in addition to the tariff. 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. Please see the Tariff and Billing Handbook to determine what appearances are considered court 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. We also ask you to summarize the total preparation hours and the total court hours at the end of the detailed account.

### 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, 2020 and May 2, 2020, 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 2 persons in court for 10 hours.

## **Billing Schedule**

BCM accounts are not currently matched by the system. 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 that counsel bills one account for the preliminary hearing and one account for the trial, for matters concluded within 30 days.

For lengthy matters, please bill monthly. Please do not bill more frequently than once a month. Frequent interim accounts slows down processing of all accounts.

Please note submission of all accounts including those of your agent(s) and disbursement accounts must be billed within the billing deadlines of the certificate (“18 month rule” based on anniversary date of certificate). Check the cover page of each certificate to review and record each billing deadline.

Further information regarding LAO billing deadlines is available at LAO’s website.

## **Payment of accounts**

BCM accounts submitted will be paid within budget and within 60 days provided none of the billing rules are breached.

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## Terms and conditions for counsel

As counsel conducting 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 an account or the delay or denial of entry to the relevant program. Counsel hereby agrees:

1. To provide LAO with a comprehensive opinion guideline 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 in a timely manner of:
  - New issues or significant events that will or could impact on the budget;
  - All planned or anticipated pre-trial motions;
  - Judicial pre-trials and whether counsel thinks it would be beneficial for the Case Manager to attend.
3. To complete and submit all budget forms and supporting materials in a timely matter as requested by LAO.
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 align preparation time close to the trial date to avoid unnecessary re-preparation.
8. To properly allocate authorized preparation time between yourself and second counsel (if authorized).
9. To submit accounts within LAO's policy and procedure guidelines, including compliance with LAO's Tariff & Billing Handbook and Disbursements Handbook.
10. To provide the Case Manager, when requested, with a copy of all accounts.
11. To immediately advise the Case Manager of any intention to be removed from the record or any request by the client for a change of lawyer. Counsel may be required by the Case Manager to meet with the client and a representative of LAO to discuss the potential for resolving any issues between them if possible.
12. To ensure a meaningful and usable work product is transferred to counsel in the event of an approved change of solicitor application.
13. 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.
14. To provide the Case Manager with estimates for disbursements not inherent in the tariff.

15. 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 pretrial motions.
16. To advise the case manager in advance if there is a likelihood that the case will cost more or less than the amount of the allocated budget.

I have read and agree to abide by the Terms and Conditions.

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## Submitting the form

Please submit the completed Case Management Assessment Form to Legal Aid Ontario using any of the following options:

- Attach the completed form online by using *Legal Aid Online*.
- Fax the completed form to 1-877-750-2009 (toll free outside the GTA) or 647-260-0550 (within the GTA)

For support regarding these options, contact the Lawyer Service Centre at 416-979-9934 or toll free 1-866-979-9934.

I certify that the information included in this form is complete, true, and accurate

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 inquiry) preparation time should I be removed from the record for conflict as a result of my previous representation of a co-accused.

Name:

Date:

Signature:

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Personal information contained on this form is collected under the authority of the *Legal Aid Services Act, 2020* and will be used for the purpose of delivering legal aid services under the *Legal Aid Services Act*.

Questions about this collection should be directed to the Privacy and Access to Information Officer at [fippa@lao.on.ca](mailto:fippa@lao.on.ca) or 1-800-668-8258.



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