

RAD merit assessment form

Lawyers must use this form to provide an opinion regarding the legal merits of a RAD application. LAO does not require a detailed opinion letter. If the information contained in the form is inadequate to sustain a positive decision, counsel will be asked to provide additional information.

As a member of the appellate panel, you undertake to request funding only in circumstances where legal merit is evident and the cost would be borne by a reasonable person of modest means.

1. Basic information

Lawyer's name:

(First)

(Middle)

(Last)

Client's name:

(Middle)

(Last)

Client's date of birth:

(YYYY-MM-DD)

CLT number:

Client's opinion certificate
number:

2. Case specific information

Has the client been in Ontario for more than twelve (12) months? Yes No

Is the client from a DCO country? Yes No

Did the client travel through the United States (US), and make their refugee claim at the US/Canada border?(US) and make their claim at the US/Canada border? Yes No

Was the claim found to have no credible basis? Yes No

Was the claim found to be 'manifestly unfounded'? Yes No

RAD application filed? Yes No

If no, when is the deadline for filing the application?

(YYYY-MM-DD)

If yes, when will you perfect the application?

(YYYY-MM-DD)

Has the record already been perfected? Yes No

If yes, please forward a copy of the factum along with this application

If no, when is the perfection date?

(YYYY-MM-DD)

If no, in whose name should the certificate be issued?

3. Merit assessment

In assessing merit, it is extremely important that you consider the “client of modest means” test: i.e., is there sufficient legal merit and likelihood of success that a client of modest means would pay for these services. LAO is an agency with limited resources, and to meet its mandate of providing services for the vulnerable, it must ensure that funding is not provided to cases that lack legal merit, and have little chance of success.

With this context in mind, do you recommend that Legal Aid Ontario fund this RAD appeal? Yes No

If no, explain:

If yes, please check which of the following grounds apply:

The issues are set out in the attached factum;

OR

1. The tribunal erred in assessing credibility
2. The tribunal ignored or misconstrued relevant evidence
3. The tribunal misstated the applicable standard of proof
4. The tribunal misstated the relevant considerations under s. 96 or s. 97
5. The tribunal incorrectly determined that the risk was general not personal
6. The tribunal failed to apply the gender guidelines
7. The tribunal misstated or improperly applied the state protection test
8. The tribunal improperly applied the change of circumstances doctrine
9. Tribunal erred in the application of exclusion principles
10. Tribunal erred in no credible basis finding
11. The tribunal erred in finding the claim to be manifestly unfounded
12. The tribunal failed to assess applicants' claims individually
13. The decision violates the *Charter*
14. The tribunal erred in its IFA analysis
15. Natural justice was violated because interpretation was deficient
16. Natural justice was violated because the board member's conduct gave rise to a reasonable apprehension of bias

17. Natural justice was violated because there was ineffective assistance by counsel

18. Natural justice was violated because other procedural irregularities occurred

Other: please elaborate briefly on each ground identified

Do you anticipate that new evidence will be available?

Yes No

If yes, please specify what this new evidence is, and why it could not reasonably have been produced at the hearing.

4. Request for transcripts/transcriptions

Transcripts are not required to perfect your appeal. The IRB has indicated that the recording of the hearing is a part of the record, and if the appellant refers to specific parts of the recording, the RAD panel is required to listen to the parts as requested.

Given the limited funds available for RAD matters and the costly nature of transcripts, please consider whether or not the transcript in whole or in part is needed to support the appeal. LAO coverage maximum = \$500

Are you requesting transcript coverage? Yes No

If yes: Cost per page (max \$3.20/page):

Estimated # of pages:

OR

OR

Cost per minute (max \$2.13/min):

Estimated hours/minutes of recording:

Provide detailed reasons why the transcript is required.
(e.g., what information is contained in transcript in support of the appeal.)

If you are requesting coverage that exceeds the \$500 maximum, either on a cost per page or cost per minute basis, please explain why.

5. Checklist of documents

Please attach:

- A copy of the BOC narrative
- A copy of the RPD decision
- A copy of the factum, if the record has been perfected.

6. Confirmations

I confirm that I did not receive a private retainer or fees for disbursements to provide this opinion.

Please use *LegalAid Online* to submit this form and any attachments through the portal under the Certificate Amendment / Authorization page.

Personal information in this form is collected under the authority of section 84 of the *Legal Aid Services Act* and is used in the general administration of the payment of lawyers accounts including: case management, application of block fees and tariff, discretion, reviews, disbursement authorization, expedite requests, late billing, hard cap, and recoveries; and, is used in the panel management of lawyers including investigations, panel suspension, and panel removal. Questions about this collection should be directed to the FIPPA coordinator, 40 Dundas Street West, Suite 200, Toronto, ON, M5G 2H1, 416-979-1446 or 1-800-668-8258.