



Sample Long Form Litigation Cost Estimate Template

Matter: _____

Cost Estimate Period: _____

ASSUMPTIONS

This cost estimate is based on a number of assumptions as follows:

1. The lawyer and staff time required for each process or procedure cannot be quantified precisely. All estimates are subject to the inherent unpredictability of litigation.
2. The process described below may be commenced and interrupted by a settlement discussion. The estimate is based on the number of hours the lawyer estimates each procedure will require based on the hourly rate of the lawyer or staff member who will be required to perform it. Some services require the work of more than one lawyer or staff member. For example, documents prepared for submission to opposing parties and the court are carefully checked by more than one member of the firm, and typically go through several draft versions before completion.
3. Services by freelancers who are not employees, partners or associates of the law firm maybe required. Even in simple cases, filing agents are hired for searches, court filing

and service of documents.

4. This estimate does not include an estimate of the cost of expert reports. In most cases, expert witnesses, such as forensic accountants and valuers are required. Other experts may also be retained depending on the circumstances of the case, including economists, engineering experts, construction experts, real estate appraisers, a document analysts, etc. These skilled professionals charge fees on an hourly basis.

5. The hourly rates used in this estimate are:

Senior Counsel: \$_____

Associate Counsel: \$_____

Junior Counsel: \$_____

Paralegal: \$_____

Articling or Summer Student: \$_____

Clerk: \$_____

These hourly rates increase annually by no more than 5%. As this is only an estimate of the time required to complete the case, the rates used are for the current year only.

6. Every lawyer is fully committed to obtaining the best possible result for the client, but the results of litigation may be affected by

- 1) the facts of the case
- 2) how witnesses deliver their evidence at trial
- 3) whose evidence the trial judge prefers, and
- 4) principles of law.

7. The fees and disbursements are payable regardless of the result unless a special arrangement has been made between the lawyer and the client. Lawyers and clients may make special arrangements for

- 1) fees driven in whole or in part by the result
- 2) reduction of fees in the case of an unsatisfactory result, and
- 3) a success bonus in the case of a satisfactory result

ASSESSMENT OF THE MATTER, DEVELOPMENT AND ADMINISTRATION

Fact Investigation

\$_____

All actions to investigate and understand the facts of a matter, including

- interviews with clients and potential witnesses
- identification and verification of all appropriate parties, including identification, corporate searches and letters of authority
- review of documents to learn the facts of the case
- consultations with investigators
- all related communications and correspondence, including e-mails and teleconferences

Case Analysis, Development of Case Strategy

\$_____

The thinking, strategizing, and planning for a case, including

- discussions, writing, and meetings on case strategy
- legal research for case assessment purposes, for developing an initial theory of the case, and basic case strategy
- preparation of written opinion, if required or appropriate

Experts and Consultants

\$_____

Identifying and interviewing experts and consultants, whether testifying or not testifying, consulting with them, developing expert reports, reviewing and understanding expert reports, reviewing opposing party's expert reports, and

- identifying the required experts and selecting the best expert for each issue, including conducting research to find the best expert
- identifying the scope of each expert's potential evidence

Offers to Settle, Settlement, and Alternative Dispute Resolution (ADR)

\$_____

Note: Efforts to settle can take place at any time during the case.

All settlement activities, including

- advising on alternative dispute resolution options
- planning for and participating in formal and informal settlement discussions, four-way meetings, conferences, and hearings
- pursuing and participating in mediation and other non-binding (ADR) procedures
- pre-litigation demand letters and ensuing discussions
- drafting offers to settle, reviewing offers to settle from opponents
- implementing a settlement
- drafting minutes of settlement

Disbursements

\$_____

PRE-TRIAL PLEADINGS AND MOTIONS

Pleadings

\$_____

Developing, drafting, editing, and reviewing Claims, Statements of Claim, Counter-Claims, Third-Party Claims, Statements of Defence, Applications, Answers

Developing, responding to, and arguing motions directed at pleadings such as motions to dismiss, motions to strike, demands for particulars, and jurisdictional motions

Interim and Interlocutory Motions and Motions without Notice

\$_____

Developing and discussing strategy for interim remedies, including motions to vary interim orders (note: some interlocutory motions are much more complicated than others)

Motions for interlocutory injunctions, Mareva injunctions and Anton Piller Orders, where appropriate, require special considerations

Assessment as to whether or not a motion without notice, such as a Certificate of Pending Litigation, Mareva injunctions or an Anton Piller Order is appropriate

Conducting legal research for interim and interlocutory motions

Preparing motions, affidavits and motion records

Reviewing opponents' motion documents

Responding to opponents' motion documents

Cross-examinations on affidavits in support of motion

Cross-examinations of non-party witnesses

Preparation of factum and oral argument

Preparation of Brief of Authorities

Attending to settlement discussions, meetings and communications to settle interim motion

Preparing Offer to Settle interim motion

Preparing for and attending at hearing of motion

Attending to and effectuating any remedy or implementing terms of interim order, including

- drafting or reviewing order
- attending to issuing and entering order
- implementing procedures to enforce order

Court Mandated Conferences, Case Management and Mandatory Mediation

\$_____

Preparing for and attending hearings and conferences required by court order or procedural rules and preparation of supporting documents, such as mediation briefs, case conference briefs or settlement conference briefs

Motions for Final or Summary Judgment

\$_____

Developing and discussing strategy for remedies

Conducting legal research for motion

Preparation of factum and oral argument

Preparation of Brief of Authorities

Preparing for and attending hearing of motion

Attending to and effectuating any remedy or implementing terms of interim order, including

- drafting or reviewing order
- attending to issuing and entering order
- implementing procedures to enforce order

Disbursements

\$_____

Appeals from Interim, Interlocutory or Summary Judgment Motions

\$_____

Considering reasons for decision of motion

Assessment of potential grounds and prospects for success on appeal

Where required, assessment of prospects of success on motion for leave to appeal

Preparation and service of Notice of Appeal

Assessment of whether a motion for stay is required and, if so, preparation of Notice of Motion, Affidavit and factum and attendance for oral argument on the motion

Assessment of whether any new evidence is required on appeal and the test for introducing it

Preparation of factum and oral argument on appeal

Preparation of Brief of Authorities

Preparation of Offer to Settle the results of the motion

Discussion with clients and opposing counsel as possibilities of settlement of the result of the motion

Preparing for an attending at hearing of motion

Attending to effectuating any remedy or implementing terms of interim order, including

- drafting or reviewing order
- attending to issuing and entering order
- implementing procedures to enforce order

DISCOVERY

Documentary Disclosure and Production

\$_____

Attending to disclosure and production of documents in accordance with court rules, including,

- gathering of documents, including electronic records
- reviewing and identifying documents for production
- reviewing documents for privilege, making and responding to privilege claims
- preparing Affidavits of Documents
- responding, objecting to, and negotiating requests for production of documents.

Examinations for Discovery

\$_____

Planning and preparing for examination for discovery of client and opposing parties, including

- preparing and serving notices for examination of discovery
- communicating with opposing or other party's counsel on scheduling and logistics
- reviewing documents and pleadings
- meetings with client or third-party witnesses
- Attendance at examination for discovery of client and of opposing parties

Attending to all post discovery matters, including

- reviewing transcripts with client
- answering undertakings

Discovery Motions \$_____

Developing, responding to, and arguing all motions that arise out of the discovery process

Motions for undertakings and refusals to be answered

Disbursements \$_____

TRIAL PREPARATION AND TRIAL

Fact Witnesses \$_____

Preparing for examination and cross-examination of non-expert witnesses

Expert Witnesses \$_____

Preparing for examination and cross-examination of expert witnesses

- review of expert reports and discussion with expert to ensure that facts and assumptions are correct
- service of expert reports at least 90 days before trial
- review of opposing parties' expert reports and conferences with clients and expert witness to assess their impact, including discussion with expert about

supplementary or responding report

Other Trial Preparation \$_____

All other time spent in preparing for trial, including

- developing overall trial strategy
- preparing opening and closing arguments
- identifying documents for use at trial
- preparing factum, Book of Authorities, Exhibit Book and Agreed Statement of Facts
- updating research

Pre-trial Hearings \$_____

Preparing for and attending at pre-trial conferences including preparation of pre-trial conference briefs

Attendance at Trial \$_____

Preparing for and attending at trial including preparation of trial briefs

Post-Trial Motions and Submissions \$_____

Developing, responding to and arguing all post-trial matters in trial court including assessment and claims for costs

Preparing Bill of Costs and submissions on costs

Enforcement \$_____

Enforcing and collecting judgments

Disbursements \$_____

APPEAL

Appellate Motions and Submissions \$_____

Note: The services under the retainer with the law firm terminate at the conclusion of the trial or application. All services in connection with an appeal should be subject to a new retainer with a cost estimate. If this is not clear from the retainer, the lawyer may be expected to act to the end of an appeal on one retainer.

Developing, responding to and arguing motions and other filings before a reviewing body, such as motions and other filings for stay pending appeal

Reviewing trial transcripts

Perfecting appeals

Appellate Briefs \$_____

Preparing and reviewing appellate briefs

Oral Argument \$_____

Preparing for and arguing an appeal before a reviewing body

Disbursements \$_____

Examples of Disbursements incurred by the lawyer

(Note: Not all disbursements are applicable in every case)

- Searches – corporate, title, motor vehicle, drivers licence, *PPSA*
- Filing clerk and agent for searches, filing in court and service of documents
- Court Filing fees Application, Statement of Claim, Statement of Defence, etc.
- Court filing fees for motions
- Photocopies and binding of applications

TOTAL ESTIMATED COST \$_____

HST is added to amounts as required.

The law firm requires a retainer in the amount of \$_____. Interim accounts are submitted at appropriate intervals and are due within 30 days of receipt. The law firm will request that the retainer be refreshed as the case progresses. The failure to pay outstanding accounts or to provide an additional retainer as requested is a justification for the termination of the law firm's services. Interest is payable on outstanding accounts 30 days after submission at the rate shown at the bottom of the account.