

# Settlements and Judgements

## Part 1: Definitions

**Case:** one or more related legal problems arising for a client.

**Client:** means an individual who is receiving or who has received legal aid.

**Final account:** is the completed billing form(s) a tariff lawyer submits to LSS, when he or she ceases acting in a case, as a full and final statement of all legal fees and disbursements he or she is entitled to recover from LSS.

**LSS:** is the Legal Services Society

**Manager:** is the Manager, Finance and Administration, or his or her designate.

**Repayment funds:** the money LSS determines a client owes LSS for fees and disbursements paid on behalf of the client.

**Representation Contract:** is a LSS authorization for a lawyer to provide legal services to a client and to bill LSS for legal fees and disbursements for the case according to the tariff contract.

**Tariff contract:** the retainer agreement between LSS and contract lawyers, as modified from time to time by LSS, including the contents of the *Guide to Legal Aid Tariffs* (Introduction, General Terms and Conditions, applicable Tariffs, Guides to Billing), and Notices to Counsel and other written instructions that LSS may provide to contract lawyers directly or through the LSS website.

**Tariff lawyer:** is a lawyer who is a member in good standing of the Law Society of British Columbia, holds a Law Society of British Columbia practicing certificate, and who LSS deems eligible to accept contracts.

**Tariff rate:** is the rate LSS pays for legal services, in the form of block fees or an hourly rate, as set out in the tariff contract.

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## Part 2: General Principles and Objectives

1. An LSS client who receives a settlement or judgment on a legal aid representation contract may be required to reimburse LSS for any legal fees and disbursements paid by LSS on behalf of the client.
2. If a client terminates his or her legal aid contract prior to receiving a settlement or judgment, he or she may still be required to repay LSS for any legal fees and disbursements paid by LSS on behalf of the client.
3. Based on specific criteria outlined in this policy, LSS calculates the amount of settlement/judgment monies that are exempt from any monies used for repayment to LSS.
4. If the client is found financially ineligible for further legal aid as a result of the settlement/judgment received, the tariff lawyer must provide LSS with a final account for all services provided on the contract within 30 days.
5. Tariff lawyers cannot privately bill clients retroactively for services provided under a legal aid contract.
6. Tariff lawyers may enter into a private retainer with a client if authorized in writing by the Manager or if LSS deems the client no longer eligible for legal aid.

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## **Part 3: Policy Application**

This policy applies to a legal aid representation contract and/or services related to a legal aid contract where a LSS client receives a settlement/judgment. LSS requires repayment on the contract which resulted in the settlement/judgment monies being received and any other related contracts.

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## Part 4: Amount Payable to LSS

1. Tariff lawyers must notify LSS immediately upon learning that a settlement will be received or judgment will be awarded to the client and provide the Finance and Administration Department with:
  - a. the client's current contact information so that the client receives a repayment decision letter, and
  - b. the amount of the expected settlement or judgment.
2. For any legal services provided and disbursements incurred prior to the settlement/judgment being received, the tariff lawyer must bill LSS at the tariff rate set out in the *Guide to Legal Aid Tariffs*.
3. Tariff lawyers must submit a final account to LSS within 30 days of receipt of the settlement or judgment and a completed Settlement or Judgment Confirmation form.
4. When LSS is advised that a settlement/judgment will be received by the client, LSS will calculate the repayment funds based on the total fees and disbursements paid on the case for which the settlement/judgment was received and any exemption amount(s) that apply. LSS will advise both the lawyer and the client in writing of the repayment funds.
5. Tariff lawyers have an obligation to protect LSS' interest in settlement/judgement monies, confirm with LSS the repayment funds, and obtain authorization from LSS before any portion of the settlement/judgment is released.
6. Settlement/judgment monies for the following are exempt from repayment of legal fees and disbursements:
  - a. lump sum and periodic child and spousal support awards,
  - b. monies required to pay court ordered family debts, and
  - c. non-disposable assets that cannot be redeemed such as property or a locked in RRSP. (Note: Money reinvested into a family home is not exempt from the settlement figure used for calculating repayment.)
7. In determining monies available for repayment of legal fees and disbursements, LSS subtracts from the total settlement an exemption amount for the client based on personal property exempt in limits by household size as outlined in LSS' coverage policy and set out in the following chart:

| Amount Exempt | Household Size |
|---------------|----------------|
| \$2,000       | 1              |
| \$4,000       | 2              |
| \$4,500       | 3              |
| \$5,000       | 4              |
| \$5,500       | 5              |
| \$6,000       | 6              |

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## **Part 5: Review by Manager**

The Manager may review the application of this policy upon the request of the client or lawyer within 21 days of the date of the LSS written notification to both the client and the lawyer of the repayment funds.

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## Part 6: Timing of Repayment

1. The repayment funds must be paid to LSS within 14 days of notification from LSS that no request for review under Part 5 has been received. In the event of LSS receiving a request for a review under Part 5, the repayment funds must be paid to LSS within 14 days of the date of LSS' decision on the review.
2. Once LSS has confirmed that the repayment funds have been received, the remaining monies may be released to the client.

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## **Part 7: Assessing Financial Eligibility**

When the monetary settlement/judgment is received, LSS will reassess the client based on the current *Intake Policies and Procedures* financial eligibility guidelines.

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## Part 8: Entering into a Private Retainer

1. A tariff lawyer may not bill a client privately on any matter related to the case specified in a contract without prior written authorization from the Manager.
2. With the client's consent, the tariff lawyer may enter into a private retainer with the client to continue any further services if the client is deemed by LSS to be no longer eligible for legal aid.
3. In the course of the legal aid contract, if the lawyer and client agree to end the contract and pursue assets, the lawyer must first obtain written permission from the Manager and provide LSS with a final account for all the services that have been completed under the representation contract.

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## History

**Questions to:** Manager, Finance and Administration Department

**September 1, 2016:** Updated terminology.

**April 27, 2015:** Reformatted and updated terminology.

**April 2013** – updated to reflect change of responsibility and ownership of policy from the Audit and Investigation department to the Finance and Administration department.

**EMC Approved September 10, 2009 – new policy.** This policy replaces previous practice regarding conversions to private retainers.

**SEE [POLICY](#) AND [FORMS](#) PAGES FOR:** Other policies and forms referenced in this document.