

## **ASSESSMENT OF A LAWYER'S ACCOUNT**

### **Concerned About Your Lawyer's Account?**

1. If you don't understand some of the items on your bill or if you disagree with the amount, the first step is to talk it over with your lawyer. Discuss the details and/or ask for explanations regarding particular charges or items on your bill.
2. If you and your lawyer are unable to resolve your concerns, you may ask the lawyer to have his/her account assessed. If your lawyer agrees/consents to the assessment, you can then go before the local registrar directly, using the "Consent" and "Request to Local Registrar" Forms attached.
3. If your lawyer does not consent to an assessment, you may make an application to the court, using the "Notice of Application", "Affidavit" and "Draft Order" forms attached.

### **How do I apply to the Court for an Assessment?**

4. An application for assessment of a lawyer's account should be made within 30 days of the receipt of the account in order for your application to go directly before a local registrar of the court. Application is commenced by a document called "Notice of Application". If the application is made when 30 days are past, the court must decide if it is in the "interest of justice" to assess the account after the expiration of this 30 day period. There are certain factors the court may consider in their decision to allow an extension of the 30 day time period.

If you are successful the court will refer the matter to the registrar for assessment. It is important to note that an account may be assessed before or after an account has been paid.

5. Prior to service of the Notice of Application, confirmation should be obtained from the local registrar in the nearest judicial centre (Queen's Bench Court House) of the dates on which chambers will be held (when Court hears Applications) and the Notice of Application completed accordingly. Following service on the lawyer, the original documents must be filed with the local registrar. The filing fee is \$100.00.
6. The documents must be served on the lawyer at least fourteen (14) days (excluding weekends and holidays) before the day on which the notice is to be heard. They must be filed with the local registrar no later than 4:00 p.m. two (2) working days before the hearing date.

7. An application must be served on the lawyer personally or by leaving it with his/her law partner. A copy is to be left with him/her. The lawyer may accept service by noting it on the front of the original Notice or service may be proved by Affidavit of service.
8. The Affidavit of the Applicant (and Affidavit of Service if necessary) must be sworn before a Commissioner for Oaths or Notary Public and must be filed with the court.

The documents enclosed should be re-typed as originals before service and filing. You will need one copy for the lawyer, one copy for yourself and you must file the original with the court.

The above comments and enclosed material are intended only as a guide. They are not statements of law. The suggested materials will not apply to every situation.

The Law Society does not warrant the efficacy and propriety of the enclosed materials and suggests that reference should be made to *The Legal Profession Act, 1990, S.S. 1990-91, C.L-10.1* and *The Queen's Bench Rules of Court*.

It is recommended that persons wishing to pursue any application to the court consult a lawyer. If you cannot afford a lawyer you may also consider contacting Pro Bono Law Saskatchewan for further information on various programs.

Pro Bono Law Saskatchewan  
(306) 569-3098  
[info@pblsask.ca](mailto:info@pblsask.ca)  
<http://www.pblsask.ca>

## FAQ'S ABOUT THE ASSESSMENT PROCESS

**Q. What is an “assessment”?**

- A. The right of assessment is created by *The Legal Profession Act, 1990* to allow an eligible party to have a lawyer’s bill of costs assessed by the local registrar, who has the authority to allow, reduce, or disallow the fees as he/she sees fit.

**Q. Who is eligible to apply for an assessment of an account?**

- A. Any person charged with a bill, or the lawyer themselves, can request an assessment. In addition, *The Legal Profession Act 1990* also provides that any person who, although not charged with the bill, is liable to pay or has paid the bill to the lawyer or the person charged with the bill is also eligible to apply for an assessment.

**Q. How long do you have to assess a lawyer’s bill?**

- A. If the bill is unpaid, you have 30 days after the day on which you received the bill to have it assessed. If the bill is paid, then you have 30 days from the day on which the bill is paid. In some circumstances, if the court is satisfied that it is in the interest of justice to allow an assessment after the expiration of the 30 day period, then an assessment can be done within 6 years after the day on which the bill was paid.

**Q. What factors will the court consider when deciding whether to assess a bill past the 30 day time period?**

- A. There are a few factors that the court considers in extending the time period. One of these factors is whether a law suit has been commenced for the collection of the account prior to your application to the court for an assessment. Another factor is the length of time beyond the 30 day time period. In previous cases, a time period of less than 3 months was considered a favorable factor in the court’s evaluation of whether or not the deadline may be extended. Another potential factor is whether discussions took place between the client and the lawyer concerning the appropriateness of the bill between the time the bill was rendered and the time the application for an assessment was made. Lastly, the court may consider whether either party has alleged or established that any prejudice to either party would result from the extension of time.

**Q. How does an application after the 30 day limit differ from one filed within the 30 day limit?**

- A. When an application is made after the 30 day period, an Affidavit should be filed in support of the application showing the special circumstances that the court should consider. The Affidavit should include a description of the retainer between you and your lawyer, including any legal services provided, fee estimates, hourly rates, any discussions regarding the bill and any deficiencies in the lawyer’s work. The Affidavit should also include the full particulars of any “special circumstance” that you feel that the court should consider.

**Q. Are there limits to assessing the bill?**

- A. Yes, items on a bill as between lawyer and client which are covered by a tariff such as fees for the administration of estates, fees pursuant to *The Small Claims Act, 1997* and fees pursuant *The Residential Tenancies Act* will be assessed based on scales approved by the Law Society of Saskatchewan and the Court of Queen's Bench for Saskatchewan.

**Q. Who does the assessment?**

- A. An application to the court is referred to the local registrar of the court at the judicial centre nearest to which the lawyer who performed the services carries on practice.

**Q. Where does the assessment take place?**

- A. The assessment takes place at the court house and the application for assessment is heard in Chambers.

**Q. How do I know which judicial centre to apply in?**

- A. Your application should be made in the judicial centre nearest to which the lawyer who performed the services carries on his/her practice. There are 11 judicial centres in Saskatchewan. To determine the boundaries of any given "centre", you may inquire at any Queen's Bench Court House in Saskatchewan. Addresses and phone numbers are listed in the attached reference material.

**Q. How much does an assessment application cost?**

- A. The filing fee for the Notice of Application is \$100.00

**Q. Do I have a right to appeal the Registrar's decision?**

- A. Yes, the s.72 of *The Legal Profession Act, 1990* provides that a party may appeal the decision of the local registrar to the court.

**Q. Where can I get more information?**

- A. Attached is a list of reference material that includes relevant legislation, websites and a list of judicial centres that may be sources of further information on the assessment process.

## **Reference Material**

Queen's Bench Rules of Court

[www.publications.gov.sk.ca](http://www.publications.gov.sk.ca)

*Code of Professional Conduct &  
Legal Profession Act, 1990*

[www.lawsociety.sk.ca](http://www.lawsociety.sk.ca)

CanLII- for recent Court Decisions

[www.canlii.org](http://www.canlii.org)

## Judicial Centres in Saskatchewan

### **Battleford**

Box 340  
291-23<sup>rd</sup> Street west  
Battleford, SK S0M 0E0  
Tel: 306-446-7675  
Fax: 306-446-7737

### **Estevan**

1016 - 4<sup>th</sup> Street  
Estevan, SK S4A 0W5  
Tel: 306-637-4529  
Fax: 306-637-4536

### **Melfort**

Box 6500  
409 Main Street  
Melfort, SK S0E 1A0  
Tel: 306-752-6265  
Fax: 306-752-6264

### **Moose Jaw**

63 Ominica Street West  
Moose Jaw, SK S6H 1W9  
Tel: 306-694-3602  
Fax: 306-694-3056

### **Weyburn**

#18 - 110 Souris Avenue  
Weyburn, SK S4H 2Z8  
Tel: 306-848-2361  
Fax: 306-848-2540

### **Yorkton**

29 Darlington Street East  
Yorkton, SK S3N 0C2  
Tel: 306-786-1515  
Fax: 306-786-1521

### **Prince Albert**

1800 Central Avenue  
Prince Albert, SK S6V 4W7  
Tel: 306-953-3200  
Fax: 306-953-3210

### **Regina**

2425 Victoria Avenue  
Regina, SK S4P 4W6  
Tel: 306-787-5377  
Fax: 306-787-7217

### **Saskatoon**

520 Spadina Crescent East  
Saskatoon, SK S7K 2H6  
Tel: 306-933-5135  
Fax: 306-933-5723

### **Swift Current**

121 Lorne Street West  
Swift Current, SK S9H 0J4  
Tel: 306-778-8400  
Fax: 306-778-8581

### **Wynyard**

Box 1449  
410 Avenue C East  
Wynyard, SK S0A 4T0  
Tel: 306-554-5520  
Fax: 306-554-5531