



Auger Hollingsworth's answers to the questions posed in Contingency fees: What you need to know

What experience do you have with cases like mine?

Auger Hollingsworth has been handling personal injury cases since 2005. We have represented about 1700 clients like you, in all types of personal injury cases, including:

- Motor vehicle accidents, including motorcycle, pedestrian, and bicycle collisions.
- Accident benefits claims, including many catastrophic claims.
- Slip or trip and fall cases, including in retail stores, parking lots, apartment buildings and municipal sidewalks and roadways.
- Premises cases, including window malfunctions, falls down stairwells, collapsing balconies or furniture.
- Long Term Disability Cases

What legal services does the contingency fee cover?

During your meeting with Auger Hollingsworth we will discuss all the possible claims you may have. Together, we will decide what matters we can help you with and which ones we cannot.

What percentage will you charge me if I receive money at the end of my case?

The maximum percentage we will charge at the end of your case is 33% plus HST. We may charge less depending on how far your case progresses.

How do you calculate the percentage for your fee?

If your case settles, we will typically subtract the disbursements (legal expenses) from the total and then calculate our percentage of the remaining amount of the settlement.

For example, if your case settles for \$100,000.00 “all in” and the disbursements are \$10,000 including HST, we will calculate like this:

$$\$100,000 - \$10,000 = \$90,000.$$

$$33\% \text{ of } 90,000 = \$29,700$$

The fee is therefore \$29,700 plus HST of \$3,861 for a total of \$33,561.

\$	100,000
-	\$ 10,000 (disbursements)
-	\$ 33,561 (fees including HST)
\$	56,439 to You

Based on your experience, do you think that we can resolve this case in the early stages? Is the percentage lower if I am likely to win or settle my case early?

We resolve cases at many different stages.

Some cases resolve once we collect your medical records and speak the adjuster before we start a lawsuit. Cases resolve early if there is no dispute about how the accident was caused, your injuries are stable, and your income loss has crystalized. Some defendants will rarely settle without a lawsuit, such as certain retail stores or municipalities.

Many cases settle after examination for discovery including usually at mediation. At that point, most of the evidence is known. Between 50% and 60% of our cases settle at or before mediation.

If your case does not settle at mediation, it may settle at or before the pre-trial. During the pre-trial, a judge will try to facilitate a settlement and will give an opinion of your case.

About 97% of personal injury cases in Ontario settle before trial. It is most likely your case will settle. However, sometimes a case needs a trial to get fair value. If your case needs a trial, we will have one.

Who will be paying for disbursements?

Auger Hollingsworth covers all disbursements while your case is ongoing. Disbursements are paid to Auger Hollingsworth out of the settlement or proceeds.

I am paying for disbursements, what type of disbursements do I have to pay for?

N/A

If I am paying for disbursements, when do I pay for them?

N/A

Will you take a lower contingency fee if I pay for my disbursements throughout the course of the case?

We do not typically negotiate the contingency fee.

Can you give me an estimate of how much disbursements could end up costing in my case?

Disbursements vary widely depending on the type of case and the length of time the case takes.

In a case that goes to mediation, disbursements are typically between \$10,000 and \$20,000 because of the expensive medical reports and engineering reports.

If a case goes beyond mediation, disbursements tend to go up. A four-week personal injury trial could have disbursements in the range of \$100,000 as we pay for experts to prepare and attend court.

What happens if I become unable to pay for disbursements?

At the time you sign the contingency fee agreement, our firm will offer you information about After The Event Insurance to cover the cost of disbursements if you cannot pay. The After The Event insurance provides most clients with peace of mind as it covers disbursements if your case is not successful.

If I win my case, will I likely be awarded costs?

In Ontario, normally the winner is awarded costs. However, the judge retains discretion and costs are not guaranteed.

In addition, if there was an offer to settle by the defendant (insurance company), that offer could impact the amount of costs you receive.

If I lose my case, is it likely I will have to pay costs?

Yes. Normally the unsuccessful party pays costs. At the time you enter the contingency fee agreement, Auger Hollingsworth will introduce you to After The Event insurance which is available to provide coverage against a possible costs award. In most cases, the risk of having to pay costs is dramatically reduced or eliminated by the After The Event insurance.

Based on your experience, how much in costs will I have to pay to the other side if I lose?

The exposure to costs depends on the size of your case. If you are claiming \$200,000 or less, normally your maximum exposure is \$50,000 for costs. If you are claiming above \$200,000, there is no maximum. For a 4-week trial, the other side's costs may be as high as \$100,000 or more.

Will a deductible apply to my motor vehicle accident case?

Under the Insurance Act, a deductible will reduce the amount of your damages for pain and suffering if your damages are under \$132,513.01 (in 2021). This amount is indexed to inflation and increases every year.

If your injuries are valued at less than \$132,513.01, you will face a deductible of \$39,754.31 (2021).

Whether or not your pain and suffering will be higher than \$132,513.01 depends on the type of injury you have and how your injuries have impacted your ability to live your life.

The injury itself is not always the determining factor. The identical injury suffered by two different people can have a very different effect. For example, consider the difference in the impact of a broken wrist on a professional pianist just starting her career versus a retired teacher.

If a deductible applies to my case, how could it affect my award or settlement?

If the deductible applies, your settlement will be reduced by the amount of the deductible. Before your case is settled, we will tell you the net amount you will receive in your own pocket, considering any deductible.

If I win or settle, how will I receive my settlement or award money?

Your settlement funds or award money are almost always provided to you by cheque from Auger Hollingsworth.

Based on your experience, how long will I have to wait for my settlement or award?

Assuming you return the settlement paperwork to us promptly, clients typically wait three to four weeks for their settlement funds. Occasionally, where the insurance company is out of province, the funds can be slower to arrive. It would be rare for the funds to take more than 8 weeks to arrive, unless court approval of the settlement is required. Court approval is required when the client is a minor or where the client is under a legal disability.