



The following are some key considerations for anyone exploring a litigation settlement loan:

1. **Have other financing options been explored?** Loans against future settlements should only be considered as a last resort once other less expensive alternatives have been exhausted (including family and/or friends or more traditional lenders such as banks if the required monthly payments can be maintained).
2. **Discuss your situation with your lawyer.** Your lawyer is the best source of information about the status of your claim and any interim financial benefits you may be entitled to. While ultimately the decision to borrow funds against a future settlement is yours alone to make, it is important for your lawyer to understand your financial situation and for you and your lawyer to discuss the pros and cons of your available options.
3. **Determine your true financial needs before applying.** Settlement loans are not intended for discretionary purchases and should only be considered to pay for:
 - Necessary basic living expenses (rent, utilities, food, etc.);
 - Reasonable and necessary med/rehab, attendant care or other treatment services where insurance coverage is not available;
 - Refinancing higher interest debt or to cover minimum monthly debt payments on bank or credit card debt that may be in default;
 - Reasonable disbursements for your legal claim if these are not covered under the retainer agreement with your lawyer.
4. **If a settlement loan is required, consider a “staged” loan.** If a loan is to be used to cover ongoing living expenses, a “staged” loan where pre-determined amounts are advanced to the borrower each month may be a good option. Staged loans offer borrowers the peace of mind of a regular source of funds while reducing interest costs compared to lump sum loans (as interest only accrues once funds are advanced). Depending on a borrower’s needs, a combination lump sum/staged loan can be arranged.
5. **Once a decision to pursue a settlement loan has made – comparison shop for the best terms.** Many claimants and their lawyers mistakenly assume that the terms offered between different litigation lenders are reasonably similar. This is not the case. In fact, the financing costs between the main litigation lenders in Canada can vary between 20% to over 50% per year. Unfortunately, many litigation lenders do not disclose their rates up front and several add

an array of fees, charges and rate fluctuations over time which can be very confusing to borrowers wishing to know the true cost of the loans.

The following are suggested questions that borrowers can ask each litigation lender to make a proper “apples to apples” comparison:

- What interest rate will apply to the loan and will it fluctuate over time?
- How often will interest be compounded? (This determines how often interest is charged on already accrued interest. For loans that may be outstanding for years with no interim payments, loans with more frequent compounding (i.e. monthly vs semi-annually or annually) will accrue much greater interest over time.)
- What fees or charges of any sort aside from interest will I incur? Where such fees are involved, learn if they are to be deducted from the initial loan proceeds or notionally added to the principal (and hence accrue additional interest).
- Is the litigation lender collecting fees or charges on behalf of any other service provider? Some litigation lenders have active ties to “Payday” lending companies and require borrowers to utilize their services in order to access their loan proceeds (or make it very difficult for them to avoid them). Some of these companies (outrageously) charge a further 10% to 20% of the total loan amount for their cheque cashing service - which may not even be disclosed in the loan documentation as these charges are technically not those of the lender.
- Is there a minimum interest period? This is particularly important for borrowers who expect their settlement imminently.
- Ask each potential lender how much in total would be owing on a loan amount at various repayment dates (i.e. 6 months, 1 year, 2 years, 3 years). Ensure the lender factors in any fees that will reduce the initial loan proceeds from the loan amount. For example, a loan of \$5,000 from a lender who does not charge upfront fees would have to be compared against a loan of \$6,250 from a lender charging a 20% initial admin fee.) Importantly, this analysis will factor in the effect of varying compounding periods between lenders noted in the second bullet point above.

6. Do not deal with any lender who is unwilling to provide in writing the information requested above.

7. Finally, be sure to also have your lawyer review any loan documentation before you sign!