



BC ASSEMBLY OF FIRST NATIONS

1004 Landooz Road
Prince George, BC V2K 5S3
Website: www.bcafn.ca

BCAFN SPECIAL CHIEFS ASSEMBLY

February 26 & 27, 2025

Online via Zoom

Resolution 10/2025

SUBJECT: CALL TO END EXPLOITATIVE LEGAL FEE STRUCTURES

Moved BY: KUKPI7 ROSANNE CASIMIR, TK'EMLUPS TE SECWEPE'MC

SECONDED BY: CHIEF LYNDAL PRICE, ULKATCHO FIRST NATION

DECISION: CARRIED

WHEREAS:

- A. As First Nations litigation activities have increased over recent decades, certain law firms and lawyers have developed exploitative legal fee structures which allow them to receive exorbitant sums in exchange for legal work. These practices revictimize First Nations who are seeking justice and siphon off settlement funds which are intended to mitigate harm to Survivors, rather than overcompensate predatory lawyers;
- B. Lawyers may use a number of fee arrangements in their work with First Nations, including highly inflated hourly rates and contingency fee agreements, wherein the lawyer's compensation is dependent on the successful completion of the matter for which they have been retained. Contingency fees can be particularly exploitative for First Nations who do not have the financial means to pay legal fees up front. Such fees have been subject to court scrutiny, where firms have charged up to 20 per cent of a settlement for legal services. They have been widely criticized for unfair outcomes, lack of transparency, and for resulting in legal fees which are out of proportion to typical market rates in other areas of law;

Certified copy of a resolution adopted on the 27th day of February 2025

Terry Teegee, BC Regional Chief

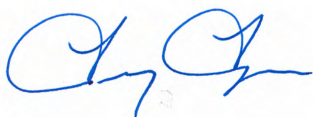
- C. The *United Nations Declaration on the Rights of Indigenous Peoples* (“UN Declaration”), which the government of Canada has adopted without qualification and has, alongside the government of British Columbia, passed legislation committing to implement, affirms:

Article 2: Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their Indigenous origin or identity

Article 8(2): States shall provide effective mechanisms for prevention of, and redress for
(b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources.

- D. On December 7, 2023, the Assembly of First Nations passed Resolution 91/2023, *Reform Exploitative Legal Fee Structures*, detailing this issue at the national level, by calling on the Federation of Law Societies and the 14 provincial and territorial law societies to develop and implement, in coordination and collaboration with First Nations, distinctions-based rules of professional conduct to address fair and reasonable legal fees for First Nations clients. Additionally, the resolution calls for the Government of Canada to condemn and address law firms who prey upon First Nations and utilize exploitative legal fee structures against them;
- E. The BCAFN Chiefs-in-Assembly mandated the establishment of the BC First Nations Justice Council (BCFNJC) as an organizational body to create and implement the BC First Nations Justice Strategy. Specifically, the BC First Nations Justice Council’s work focuses on:
1. Reconciliation with Indigenous people.
 2. Decreasing the overrepresentation of Indigenous peoples in the justice system.
 3. Improving the experience of Indigenous people within the justice system.
 4. Addressing violence against Indigenous people, especially women and girls.
 5. Engagement with Indigenous communities and organizations in a respectful and culturally appropriate manner.
 6. Improved access to justice services by Indigenous peoples.
 7. Designing services that provide Indigenous people with culturally relevant, flexible and user-focused processes;
- F. First Nations in BC have provided a clear mandate to the BCNFJC to:
1. Challenge approaches that contribute to the growing over-representation of First Nations children and youth in the care of government and First Nations men and women in incarceration; and
 2. Productively engage with government to advance effective strategies that can achieve better outcomes for Indigenous peoples in the justice system;
- G. The Law Society of British Columbia has not developed or implemented in coordination and collaboration with First Nations, distinctions-based rules of professional conduct to address fair

Certified copy of a resolution adopted on the 27th day of February 2025



Terry Teegee, BC Regional Chief

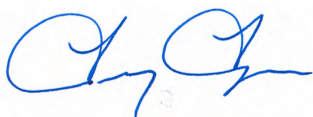
and reasonable legal fees for First Nations clients. The Law Society of British Columbia has developed and implemented rules to protect personal injury clients and class action claimants within the *Law Society Rules*, Part 8, but have failed to develop and implement rules to protect First Nations and Indigenous clients;

- H. There are a number of noteworthy allegations of lawyer exploitation of First Nations, including the Merchant Law Group, which the federal government accused of inflating bills for the Indian Residential Schools class action. Notably in B.C., the Law Society of British Columbia failed to protect Indigenous clients as evident in the recent example in the *Bronstein Decision*, 2021 LSBC 19;
- I. In response to increasing incidents of conflict between lawyers and First Nations over financial arrangements, the Indigenous Bar Association (IBA) has called for changes to the Federation of Law Societies of Canada's model code of professional conduct to prevent lawyers from exploiting Indigenous clients. The IBA has also advocated for caps on the percentage firms can charge for work on Indigenous claims and developing mandatory training for lawyers working on disputes between law firms and Indigenous clients; and
- J. Despite these advocacy efforts, exploitative legal fee structures have persisted. Discriminatory practices target First Nations, enabling lawyers to capitalize on First Nations in vulnerable financial and social positions and utilize power imbalances for their own profit.

THEREFORE BE IT RESOLVED THAT:

- 1. The BCAFN Chiefs-in-Assembly call for the Law Society of British Columbia to immediately undertake the development and implementation, in coordination and collaboration with First Nations, distinctions-based rules of professional conduct to address fair and reasonable legal fees for First Nations clients. Specifically, the BC Chiefs-In-Assembly calls for the Law Society of British Columbia to immediately engage BCAFN and the BC First Nations Justice Council to coordinate these efforts; and
- 2. The BCAFN Chiefs-in-Assembly call on the Government of Canada and the Government of British Columbia to condemn law firms who prey upon First Nations and utilize exploitative legal fee structures against them.

Certified copy of a resolution adopted on the 27th day of February 2025



Terry Teegee, BC Regional Chief