

SCHEDULE "B"

FAQs — Knowledge Tree

The FAQs — Knowledge Tree is a custom-designed tool for members of the Law Society of Upper Canada. A comprehensive Q&A of the most popular practice management subjects you have asked about is posted here in an easy to use format.

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Q: My client is involved in a lawsuit and recently agreed to settle the matter with the opposing party. I drafted a settlement agreement based on the terms we discussed but now my client has stated that she will not honour the terms and has refused to sign the agreement. What should I do?

A: Apart from any legal consequences concerning breach of contract, lawyers and paralegals have a duty to advise their clients with candour on every issue that may arise during the client's matter. See [subrule 2.02\(1\)](#) of the lawyers' *Rules of Professional Conduct* (lawyers' *Rules*) and [subrule 3.02\(1\)](#) of the *Paralegal Rules of Conduct* (*Paralegal Rules*). Once you have advised your client regarding the agreement and the consequences of not signing it, you also have a duty to follow your client's instructions, as the lawyers' *Rules* and *Paralegal Rules* permit. If your client instructs you to inform the opposing side that they no longer agree to the terms of settlement, you must do so.

If the client refuses to heed your advice on a significant point, where there has been a serious loss of confidence between you and your client, you may be permitted to withdraw from further representation. However, the threat of withdrawal must not be used to force the client's decision on a difficult question. Further, if your client's refusal to sign the settlement agreement results in a trial on the issue wherein you are required to testify as a witness, such as a motion to enforce the settlement, you may be forced to withdraw from further representation [[rule 4.02](#) of the lawyers' *Rules*, [rule 4.04](#) of the *Paralegal Rules*] and should be aware of your obligation to assert privilege on behalf of your client. See [rule 2.09](#) of the lawyers' *Rules* and [rule 3.08](#) of the *Paralegal Rules* for guidance regarding withdrawal from representation, both optional and mandatory.