

THE LAW SOCIETY OF SCOTLAND

LEGAL AID MEMORANDUM

From D. W. Anderson, Esq.

To

Taxation on Joint Remit - [REDACTED] - 37/22/138835/80

In this case the pursuer obtained Legal Aid for divorce/adultery/custody/aliment/ periodical allowance and the defender obtained an Emergency Legal Aid Certificate restricted to interim aliment and a full Legal Aid Certificate on defence on quantum/alliment. The effective date of [REDACTED] Certificate was 26th January 1981 and no Legal Advice and Assistance application was lodged.

The dispute revolves around entries between pages 1 and 7 in the correspondents' account. All entries to July 1980 relate to a period prior to the Summons being served on the defender and we submitted that none of these entries should be a charge against the Legal Aid Fund. We further submitted that only those entries relating to a probable cause be allowed for the period between 20th July 1980 and 26th January 1981. Many of the items related to adjustments of access and Legal Aid might have been applied for at a much earlier stage. It appeared from an entry on page 7, 23rd December, that it was only because agreement had not been reached that Legal Aid was sought and we submitted that it is not reasonable that Public Funds should pay for these negotiations prior to the effective date.

The Auditor disallowed most of the entries relating to work prior to the issue of the Summons. He drew the distinction between current aliment and arrears of aliment and negotiations in increasing aliment. He also indicated that although there was only a defence on quantum of aliment the question of access was so intermingled due to the fact that the defender was apparently not paying aliment because he was being refused access to the children of the marriage. Entries re access which did not advance to alimentary dispute were abated but those entries which dealt with a request for increase in aliment even though pre Legal Aid were allowed.

The only other items of significance were a) The Auditor allowed a full framing charge for the Emergency Application, b) The Auditor disallowed those letters between the Agents sending their file to enable the account of expenses to be prepared for submission to the Legal Aid Fund.

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D. W. Anderson, Esq.