

# AUDITOR OF THE COURT OF SESSION

PARLIAMENT HOUSE, EDINBURGH, EH1 1RQ

031 225 2595 Extn. 306

KA v HA

On the joint remit of the Legal Aid Central Committee (on behalf of the Legal Aid (Scotland) Fund) and Messrs. Brodies, W.S., the Auditor taxes at the sum of THREE THOUSAND AND FORTY NINE POUNDS AND FORTY PENCE (£3,049.40) the expenses payable by the Fund to the solicitors for their whole work on behalf of [REDACTED] under the Legal Aid Certificate issued under reference 37/01/155829/81. The said sum is inclusive of all fees, posts and outlays as set out in the Account of Expenses, of V.A.T. on the appropriate proportion of solicitors charges and Counsel's fees, and of the Auditor's fee, inclusive of V.A.T.

EDINBURGH

12th June 1984

NOTE: The account submitted in this defended divorce action contained block fees for work carried out by Messrs. Brodies, W.S., and their correspondents.

While admitting that a solicitor may avail himself of block fees for ease and convenience when a detailed account would bring out a slightly higher total fee figure, generally the Central Committee take the view that the solicitor is exercising his option to charge block fees in preference to detailed charges in his own overall financial interest. It is accordingly proper, in the Auditor's view, that any claim for an increase in block fees be scrutinised with particular care. In the present case thirty-two sheets of precognitions were claimed, twenty-three of them of the Assisted Person himself, and the fee claimed for preparation for proof was double the figure provided in the Court of Session Table.

After hearing parties at the diet of taxation, the Auditor taxed the preparation for proof fee at £180.00 - a 50% increase on the appointed figure. At the diet the Auditor was handed copies of precognitions in question and took time to consider them subsequently.

**The Auditor** Evan H. Weir, W.S.  
**Principal Clerk** James W. Hastings

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subsequently. The reason given very briefly in the Account for the increased preparation fee is "TWO consultations necessary and attendance of correspondent at both". The Auditor was advised that the second consultation was particularly requested by Counsel. The action was defended on the merits. There was continuing dispute throughout the action in relation to the defender's access to the children of the marriage. A capital sum of £8,000.00 was awarded to the pursuer.

In a defended divorce action it is often considered proper on a party-and-party basis (the consistorial scale applying) to allow the charges of the local agent attending one consultation with Counsel in Edinburgh, as it is accepted that in the very nature of the proceedings, the personal contact of the local solicitor with the local events, and the witnesses, as well as with his own client enables him to contribute significantly to the picture to be presented to Counsel, as well as to afford the client some degree of moral support when discussing essentially personal matters with Counsel and Edinburgh solicitors with whom he will have had little or no contact. This taxation is on the agent-and-client, fund paying, basis. The contest so developed as to put in issue the whole attitude of the parties to the marriage and their conduct while it subsisted and up to the date of the hearing. The evidence of the client was very fully recorded at substantial expenses. Balancing these relevant factors as best he can, in the light of the full picture given him by the process and at the diet, the Auditor regards as reasonable the increase he has allowed in the block fee for preparation for proof.

24th May 1984

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THE LAW SOCIETY OF SCOTLAND  
LEGAL AID MEMORANDUM

From Civil Taxation Dept. ....

To .....

[REDACTED] - 37/01/155829/81

In this case the Defender's Agents elected to charge their account on a block basis and a dispute arose after they doubled the Preparation for Proof fee on the grounds that two consultations were necessary and consequently they increased the fee in terms of General Regulation (F).

The Department decided to proceed to Taxation on the basis that the previous Auditor, although acknowledging the Regulations, would not exercise his option to increase the fees. The Auditor examined the process etc. in this case and found that the fresh Consultation on 23rd February 1983 was held in connection with financial conclusions and followed receipt of a six page Note on Line received from Counsel. The second consultation was held on 3rd May 1983 just prior to the Proof and dealt with the actual Defence on Merits. The Auditor considered that there was sufficient cause to hold two consultations and therefore increased the Preparation fee by 50%.

The Auditor indicated that he would consider increasing any Block Fee, depending on the circumstances of each case.

I would think that if any request for increased fees is presented to us in the future we would have to be quite sure that there was a valid reason for allowing same and these problems should be brought to [REDACTED] attention.

LA Ref. 37/01/155829/81

COURT of SESSION, SCOTLAND.

ACCOUNT of EXPENSES  
incurred by Defender

LEGAL AID CODE  
00230

in causa

[REDACTED]

PURSUER

against

[REDACTED]

DEFENDER

1. LEGAL AID WORK

1982  
Jan.

Framing Legal Aid Memo

£ 2 25

Extending and 2

0 90

Framing Legal Aid Forms

2 25

Extending and 2

0 90

Writing correspondents

1 75

Writing acknowledging >>

0 50

Writing Defender

0 50

Feb.

Attendance on him completing Legal Aid Forms

7 50

Writing Brodies

1 75

9 Writing acknowledging

0 50

Lodging Legal Aid Application

1 75

Intimating

1 75

Mar.

Framing Emergency Legal Aid Form

1 35

Extending and 2

0 90

Writing Defender to sign

0 50

Apr.

2 Writing acknowledging

0 50

Lodging same

0 50

16 Writing acknowledging Emergency Legal Aid Certificate and returning papers

1 75

Perusing

2 00

Writing correspondents

0 50

£30 30

Add: 30%

9 00

c/f.

£39 30

		Writing Legal Aid with copy Accounts	0 70
		Copies sent 6 shs	1 80
June	3	Perusing full Legal Aid Certificate	2 75
		Writing correspondents	0 70
		Writing Pursuers	0 70
	18	Writing Legal Aid with Legal Aid Certificate explaining points raised by Counsel re same and for cover for p.a. and capital sum 2 pp	5 00
	29	Writing them acknowledging and thereanent	2 50
		Framing supplementary memo	3 20
		Extending and 2	1 30
		Writing correspondents with same and thereanent	2 50
		Correspondents writing Defender	0 70
		Correspondents writing acknowledging	0 70
		Correspondents writing Brodies with same	0 70
July	7	Writing Legal Aid acknowledging	0 70
	13	Writing them with supplementary memo	0 70
		Writing Pursuers	0 70
	21	Writing Legal Aid acknowledging and with further information etc., required	2 50
Aug.	6	Writing them with Certificate to amend	0 70
		Writing correspondents reporting	2 50
		Borrowing Legal Aid Certificate	1 40
		Perusing amended Certificate	2 75
		Re-lodging	1 40
1983 Mar.	9	Writing Legal Aid for authority to employ Mr Scott Henderson of Pollock & Buchan for Valuation	2 50
	17	Perusing Authority	2 75
		Writing correspondents	0 70
Sept.		Writing Faculty Services	0 70
		Framing SR4	1 40
		Extending	0 70
		Copy	0 30

Writing Legal Aid

2. COURT WORK

Jan. 1981  
Apr. 1982

Instruction Fee (1/2) 41-50

Precognitions:

Defender 102

8.5 12 shs

8.5 6 shs

(18 shs)

42 50

102 00

Extending and 2 18x90-(16-20) 18 shs ea

10 80

Motion for interim custody

13 00

Motion for access

13 00

Motion re Pursuer's Minute of Amendment

4 50

£271 54

55 85

£327 39

59 00

125 00

18 50

168 00

20 20

110 00

240 00

37 00

40 00

64 00

37 00

30 00

26 00

£1,302 09

c/f.

add 26.25

5.40

add 31.65

add 9.75

add 44.04

May 1982/  
May 1982  
29.50

26-40  
36

20.00

60.00

52.00

76-86

Add: 30%

Instruction Fee 118 (1/2)

Adjustment Fee

Motion to vary interim alimnt

Precognitions:

Defender

11 shs

3 shs

(14 shs)

168 00

Extending and 2 copies 14 x 120

14 shs ea

20 20

Incidental Procedure

Preparing for Proof (added 10% to fee as 2 Consultations necessary and attendance of correspondent at both)

240 00

Defenders specifications (1st) - No. 27

37 00

Serving 4

40 00

Minute of Amendment and Answers 26 & 30

64 00

Defenders specification (2nd) - No. 40

37 00

Serving 3

30 00

Report

26 00

B/f.

£1,302 09

Minute of Amendment No. 50

27 00 ✓

Copyings: 4 copies each of:-

List of witnesses 1 sh ea

Duplicate Inventory of Process 2 shs ea

Inventories of Productions and  
Productions Nos. 7 to 11, 14 to 16,  
19 to 21, 28 & 29, 31 to 40, 41 to  
49

70 shs ea  
(73 shs ea)

*Handwritten: All in 3 copies*

116 80

Attendance at Proof *Land Bank?* 6 hrs

126 00 ✓

Final Procedure

64 00 ✓

Session Fees

155 01

Work after Decree  
(Supplementary Work)

*Handwritten:*  
21-90 ✓  
21 ✓  
98-76  
9.87

1983  
May

13 Attendance on Defender discussing residential  
dates for access

10 50

Writing Pursuer's local agents re same

2 50

Aug.

Writing Defender for Capital sum now due

2 50

Writing him acknowledging

0 70

15 Writing Pursuers acknowledging and enclosing  
same

0 70

17 Attendance on telephone with Defender noting  
problems with Tax Inspector and noting they  
wish C.C.I. of divorce interlocutor

1 40

Writing Brodies

2 50

Copy made (interlocutor)

0 70

Certifying same and paid dues

1 40

Writing correspondents with same

0 70

Correspondents writing acknowledging

0 70

Correspondents writing Defender

0 70

Sept.

Attendance on telephone with him noting access  
problems

1 40

21 Attendance on telephone with him re further  
access problems and noting he is not going to  
enforce award meantime

1 40

Writing Brodies reporting

2 50

C/f.

£1,821 20

B/f.

£1,821 20

Outlays

Defences

£ 28 00

Record

23 75

C.C.I.

3 00

C.C.I.

3 00

Faculty Services fees to Counsel as per statement

477 45

Witnesses fees as per schedule

137 00

██████████ - Valuer

40 25

£712 45

£1,821 20

Add: Posts and Incidents 12%

218 54

£2,039 74

Add: Outlays

712 45

£2,752 19

No Agency

No Legal Advice

*Agents Fee  
Val @ 15% of 20%*

25 00

278 74

3055 93

*Auditors Fee  
Val*

118 00

17 70

3191 63

142 23

3049 40

*Final Off*

The Auditor of Court of Session/Sheriff Court is respectfully requested to tax the foregoing account of expenses on an Agent and Client, third party or Fund paying basis.

Date:

Deputy Secretary.  
Legal Aid Central Committee,  
Law Society of Scotland.

*F. K. A. T. Outlay*

*40-05  
4-15*

*112.78*

*33.03*

*125-81*

*16.42*

*142.23*

*417.00  
62.35  
479.65*