

AUDITOR OF THE COURT OF SESSION

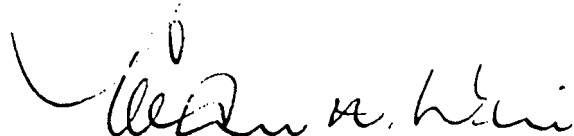
PARLIAMENT HOUSE, EDINBURGH, EH1 1RQ

031 225 2595 Extn. 306

On the joint remit of the Legal Aid Central Committee representing the Legal Aid (Scotland) Fund and the solicitors acting for [REDACTED] HT
[REDACTED], the Auditor taxes at FIVE HUNDRED AND FIVE POUNDS AND TWENTY NINE PENCE (£505.29) the whole sums due by the Fund to Messrs. Cooper & Hay, Advocates, Aberdeen in name of fees and posts inclusive of V.A.T. thereon in respect of their actings for the said [REDACTED] under Section I Certificate reference 37/66/216039/82 together with the Auditor's Fee, inclusive of V.A.T., of £23.00.

EDINBURGH

10th September 1984



NOTE: The principal issue between the Fund and the solicitors for the Assisted Person, namely the appropriate charge for telephone calls of abnormal length and serving substantially to advance the progress of the litigation, well illustrated the weakness inherent in any system of fixed or rote charges, even one so refined and of such standing as the statutory Table of Fees in the Court of Session. In the same Table many other illustrations of the same weakness are to be found. In the view of the Auditor that unreality operates more often so as to overvalue the solicitor's work than to undervalue it.



incurred by



Ref. No. 37/66/216039/82

LEGAL AID CODE

01244

to

Messrs. Shepherd & Wedderburn, W.S., Edinburgh

1982			1
Dec	8	Attendance at telephone with correspondents regarding the Summons which has been served upon their client.	1
	9	Perusing Service copy Summons.	5
		Writing Messrs. Patrick & James, the Pursuer's Agents, advising them of our interest in this case and discussing.	2
		Agency entering appearance.	1
		Enrolling to sist for Legal Aid.	1
	16	Obtaining Interlocutor and booking.	2
	20	Writing the Pursuer's Agents, acknowledging their letter and discussing matters.	2
1983			
Jan	7	Writing correspondents, reporting steps being taken by the Pursuer's Agents and discussing fully with regard to the further information we require herein, to enable the Legal Aid application to proceed. 2p.	5
Feb	8	Attendance at telephone with correspondents, discussing the present position.	1
	14	Framing Legal Aid Memorandum.	3
		Extending same and 2 copies.	1
		Framing emergency application.	3
		Extending same.	0
		Perusing statements received from our correspondents in support of the Legal Aid application.	5
		Writing the Law Society, enclosing Legal Aid application form and papers, duly completed, and with particular regard to the delay in the submission of this application and the fact that the Pursuer's Agents are pressing us. 2p.	5

1983

Brought Forward

144

Feb	16	Writing the Pursuer's Agents, acknowledging their letter and noting what they say.			0
	22	Perusing emergency Legal Aid Certificate received.			5
		Instructing R.A. Dunlop, Esq., Advocate, to draft Defences.			2
		Paid his fee. V.A.T. to be added.	16/1	17	00
		Paid his fee for Note. V.A.T. to be added.	16/1	12	00
		List of papers sent and copy.			2
		Writing the Pursuer's Agents, acknowledging their letter and discussing; advising we are now in receipt of an emergency Legal Aid Certificate.			2
		Writing correspondents, reporting developments and discussing.			2
	24	Making 2 copies Summons for Counsel and Law Society. 4 shs.			4
		Writing the Law Society with copy Summons.			0
Mar	2	Perusing draft Defences from Counsel.			1
		Perusing Note from Counsel.			1
		Instructing R.A. Dunlop, Esq., Advocate, with further information, with regard to the conclusion for a capital sum.			2
		List of papers sent and copy.			2
	3	Obtaining Interlocutor and booking. (Pursuer's motion allowing a Proof by way of Affidavit evidence).			2
	7	Attendance at telephone with correspondents with regard to the Defences.			1
		Extending draft Defences and 5 copies. 3 shs. ea.			6
	8	Having Defences signed by Counsel.			1
		Making up and lodging Process.			4
		Paid dues.		28	00
		Framing Inventory of Productions.			1
		Extending same and copy.			1
		Attendance lodging.			1
		Writing up duplicate Inventory.			0
		Enrolling motion.			1

1982

Dec

Making copy. 1 sh.

Writing the Pursuer's Agents, enclosing copy Defences and discussing with regard to our recent telephone conversation.

Mar 10 Obtaining Interlocutor and booking.

23 Writing the Pursuer's Agents, acknowledging copy of their objections to our client's Legal Aid application.

Perusing same.

Making copy. 1 sh.

Writing correspondents, reporting the present position and enclosing copy objections.

28 Instructing R.A. Dunlop for a Minute of Amendment relating to the capital aspects and enclosing copy letter and enclosures from our correspondents in this regard.

Paid his fee for Minute of Amendment and Note. V.A.T. to be added.

(F) 20 00

List of papers sent and copy.

Making copy letter and enclosures. 4 shs.

Writing correspondents, acknowledging their letter with enclosures and noting what they say.

Perusing enclosures.

Writing the Law Society, enclosing emergency Legal Aid Certificate for extension of validity and outlining fully and in detail the reasons why this is necessary. 2p.

31 Writing correspondents, acknowledging their letter and noting what they say.

Apr 7 Perusing extended emergency Legal Aid Certificate. (Restricted)

Lodging same in Process.

Apr 26 Perusing draft Minute of Amendment from Counsel.

Perusing Note from Counsel.

Extending draft Minute of Amendment and 5 copies. 2 shs. ea.

Having principal Minute of Amendment signed by Counsel.

Lodging same in Process.

19
D

2

2

2

0

5

5

0

2

1

1

1

4

1

1

1983

Brought Forward

77

00

150

00

Writing correspondents, enclosing copy Minute of Amendment and copy of Counsel's Note and discussing.

2 50

Making copy Counsel's Note. 1 sh.

0 70

Apr 29

Perusing full Section 1 Legal Aid Certificate received. (Restricted).

2 75

Lodging same in Process.

1 40

Writing correspondents, reporting terms of letter we have received from the Pursuer's Agents and discussing.

2 50

Writing correspondents, advising full Section 1 Legal Aid Certificate now to hand and that their client's contribution has been assessed at nil.

2 50

May 3

Obtaining Interlocutor and booking.

2 10

5

Attendance at telephone with the Pursuer's Agents, discussing matters herein.

1 40

9

Writing correspondents, acknowledging their letter and discussing; enclosing copy of the Section 1 Legal Aid Certificate.

2 50

Making copy same.

0 70

Writing the Pursuer's Agents, discussing with regard to the capital aspects in relation to their recent letter.

2 50

10

Writing the Pursuer's Agents, intimating our motion for interim aliment.

0 70

Writing correspondents, acknowledging their letter and discussing motion we shall be enrolling.

2 50

11

Attendance at telephone with correspondents regarding the Telex we have just received from the Pursuer's Agents.

1 40

12

Writing the Pursuer's Agents, discussing further with regard to our client's capital position.

2 50

16

Writing the Pursuer's Agents, noting they will be opposing our motion, and enclosing copy Certificate of Benefit from the D.H.S.S. on behalf of our client.

2 50

Perusing same.

5 50

Making 3 copies.

1 30

17

Instructing R.A. Dunlop, Esq., Advocate, to attend at opposed motion.

2 50

Paid his fee. V.A.T. to be added.

15

00

1983

Brought Forward

92 00 193 95

/with regard to the financial aspects.

1 40

Attendance at telephone with correspondents in this regard.

1 40

May 20 Attendance at motion.

10 50

Obtaining Interlocutor and booking.

2 10

Attendance at telephone with correspondents, reporting outcome.

1 40

27 Attendance at telephone with correspondents, when they advised that an agreement was being mooted at a local level.

1 40

31 Writing correspondents, discussing with regard to this proposed agreement.

2 50

1984

Mar 15 Framing Stage Report 4.

1 50

Making copy.

0 70

Writing the Law Society, enclosing completed Stage Report 4.

0 70

Posts and Incidents.

2 26 1

£ 92 00 243 60

Add Outlays.

92 0

£ 335 6

390

A C C O U N T O F E X P E N S E S

incurred by

The Law Society of Scotland
to Messrs Cooper & Hay, Advocates

on behalf of



Under Section I Certificate

37/66/216039/82

Defence to action of divorce

1982

Nov.	30	Meeting you discussing Summons of Divorce that you have received and all the implications thereof. Agreeing to look into the possibility of your applying for Legal Aid - principal eng. 45 mins.	21	00
Dec.	1	Writing to Messrs Carruthers, Gemmill & McKillop, Solicitors in Glasgow who act for your husband commenting on divorce and the Summons in particular - 2 sheets	5	00
		Writing Messrs Shepherd & Wedderburn with copy of Summons, explaining the situation, asking them to enter appearance and advising that we would be in touch with them again shortly with Legal Aid Application Form and full statements. Also seeking their advice on the merits of the defence - 2 sheets	5	00
		Copy Summons - 5 sheets	3	50
	6	Writing you advising you of terms of letter received from Carruthers, Gemmill & McKillop	2	50
	7	Long phone call to Messrs Patrick & James, now acting for your husband having a general discussion about the divorce, maintenance, capital sum, expenses &c. - principal eng. 15 mins.	5	25
	3 85			
	8	Long attendance at phone on Shepherd & Wedderburn discussing the action, and in particular reporting on our conversation yesterday with Patrick & James principal eng. 10 mins.	3	50
	2 10			
	7	Long attendance again on Patrick & James discussing the divorce and all the ancillary matters - principal eng. 15 mins.	5	25
	3 85			
Jan.	1	Writing you with Legal Advice & Assistance Application Form with instructions for its completion	2	50
	4	Writing you asking you to return the form as soon as possible and advising of the consequences of failing to do so.	2	50
	6	At phone on you advising you of latest developments	1	40

Jan.	11	At phone on Shepherd & Wedderburn discussing the case at length, noting that the Pursuer will oppose our motion for the cause to be sisted and advising them on our progress in getting the Legal Aid papers together - long call	2	50
	13	Writing Legal Aid Local Committee requesting increase in authorised expenditure	2	50
	20	At phone on you noting that you are now in receipt of Supplementary Benefit and we can get confirmation of this from the DHSS	1	40
		Writing DHSS seeing this confirmation	2	50
	24	Meeting you taking a statement for submission along with the Legal Aid Application. Being unable to complete statement as you had to leave urgently - principal eng. 45 mins.	21	00
		Drawing and completing Section I Application Form	3	20
		Extending and one copy	1	00
	26	Meeting you again, this time with your mother, completing your statement and taking a statement from your mother. Also discussing various ancillary matters related to the divorce - principal eng. 1 hr. 15 mins.	31	50
	28	At phone on Mr. Murphy, Solicitor in Stirling who acted for you previously, asking him for details of previous financial arrangements to assist us in your claim for a capital sum - long call	2	50
	31	Further long call to Mr. Murphy getting details of previous Legal Aid and the financial information previously requested - principal eng. 10 mins.	3	50
Feb.	2	Writing Mr. Murphy acknowledging copies of papers sent	0	70
		Perusing same (missives of sale of previous house)	2	75
	4	At phone on DHSS who said that they are sending out a letter to us at the beginning of next week	1	40
	8	Writing you advising you of the information obtained from Mr. Murphy and on your chances of a claim for a capital sum - 2 sheets	5	00
		At phone on Shepherd & Wedderburn noting that the other side are threatening to lodge a motion calling upon you to lodge defences. We are to get back to him as soon as possible with all the Legal Aid papers	1	40
		At phone on Shepherd & Wedderburn later in the day noting that the motion has been enrolled. We are to send an Emergency Application.	1	40
	10	At phone on Shepherd & Wedderburn giving them instructions for the calling of the motion today and advising them that a letter is on its way	1	40

9 80

-2-

B/F

57 4

Jan.	11	At phone on Shepherd & Wedderburn discussing the case at length, noting that the Pursuer will oppose our motion for the cause to be sisted and advising them on our progress in getting the Legal Aid papers together - long call	2	50
	13	Writing Legal Aid Local Committee requesting increase in authorised expenditure	2	50
	20	At phone on you noting that you are now in receipt of Supplementary Benefit and we can get confirmation of this from the DHSS	1	40
		Writing DHSS seeing this confirmation	2	50
	24	Meeting you taking a statement for submission along with the Legal Aid Application. Being unable to complete statement as you had to leave urgently - principal eng. 45 mins.	21	00
		Drawing and completing Section I Application Form	3	20
		Extending and one copy	1	00
	26	Meeting you again, this time with your mother, completing your statement and taking a statement from your mother. Also discussing various ancillary matters related to the divorce - principal eng. 1 hr. 15 mins.	31	50
	28	At phone on Mr. Murphy, Solicitor in Stirling who acted for you previously, asking him for details of previous financial arrangements to assist us in your claim for a capital sum - long call	2	50
	31	Further long call to Mr. Murphy getting details of previous Legal Aid and the financial information previously requested - principal eng. 10 mins.	3	50
Feb.	2	Writing Mr. Murphy acknowledging copies of papers sent	0	70
		Perusing same (missives of sale of previous house)	2	75
	4	At phone on DHSS who said that they are sending out a letter to us at the beginning of next week	1	40
	8	Writing you advising you of the information obtained from Mr. Murphy and on your chances of a claim for a capital sum - 2 sheets	5	00
		At phone on Shepherd & Wedderburn noting that the other side are threatening to lodge a motion calling upon you to lodge defences. We are to get back to him as soon as possible with all the Legal Aid papers	1	40
		At phone on Shepherd & Wedderburn later in the day noting that the motion has been enrolled. We are to send an Emergency Application.	1	40
	10	At phone on Shepherd & Wedderburn giving them instructions for the calling of the motion today and advising them that a letter is on its way	1	40

Feb.	10	Writing IHSS in response to theirs advising them with regard to your savings, assets &c.	2
		Meeting you completing Emergency Application Form and discussing question of capital sum - principal eng. 1/2 hr.	10
		Drawing Emergency Application	3
	30	Extending and one copy -	1
		Writing Shepherd & Wedderburn with full instructions with regard to Legal Aid - 2 sheets	2
		Drawing statement by applicant - 5 sheets	16
		Extending and one copy	5
		Drawing statement by [REDACTED] - 1 sheet	3
		Extending and one copy	1
	14	At phone on Shepherd & Wedderburn noting that they think we ought to try and get some more evidence	1
	15	Writing you acknowledging receipt of your letter and advising you on the "matrimonial property". Also advising you on Shepherd & Wedderburn's comments on the merits of the defence - 2 sheets	5
	17	Long attendance at <u>phone</u> on you discussing the problem of corroboration and other possible witnesses, and advising you thereon - principal eng. 15 mins.	5
	3 85		
	23	At phone on Shepherd & Wedderburn noting that Counsel has drafted defences but has not yet concluded for a capital sum as he requires further information	1
	24	Long attendance at <u>phone</u> on you noting information that might be useful to back up your claim for a capital sum - principal eng. 10 mins.	3
	2 10		
	25	Writing Shepherd & Wedderburn acknowledging their letter and giving them further information to justify your claim for a capital sum - 2 sheets	5
	27	At phone on Shepherd & Wedderburn noting that you have been granted Emergency Legal Aid	1
March	7	At phone on Shepherd & Wedderburn noting that Counsel is still not happy with the claim for a capital sum	1
	9	Writing Shepherd & Wedderburn acknowledging receipt of Counsel's note on this matter and asking them to proceed with the defence without making a claim for capital sum at this stage.	2
	2 05	Perusing Counsel's note	2
	9	Writing you with copy of Counsel's note and advising you thereon	2
	.80	Copy - 2 sheets	1

23 20

Mar.	23	Writing Shepherd & Wedderburn in response to theirs asking them for a copy of defences giving them full information in response to Counsel's note 3 sheets		7
		Meeting you (prior to previous letters) discussing Counsel's note and taking full details - principal eng. 1/2 hr.		10
	28	At phone on you advising you of terms of Shepherd & Wedderburn's letter and taking your instructions thereon - long call	1 10	2
		Writing Shepherd & Wedderburn acknowledging receipt of theirs and giving them further information with regard to the house purchased by you in November 1981 - 2 sheets		5 0
	30	Writing Shepherd & Wedderburn acknowledging copy of defences		0 70
		Perusing same		2 75
May	3	^{Revising} Perusing further note by Counsel on the capital sum	2 05	2 75
		Writing you with copy		0 70
	40	Copy - 1 sheet		0 70
		Writing Shepherd & Wedderburn acknowledging copy of Minute of Amendment and copy of Counsel's note and concurring thereon		2 50
		Perusing copy Minute of Amendment		2 75
	4	Writing ditto acknowledging their letters, noting that you have been granted Legal Aid and giving them information about the house that you have purchased recently		2 50
	10	Perusing copy Legal Aid Certificate received from Shepherd & Wedderburn		2 75
	11	At phone on Shepherd & Wedderburn discussing whether you really have to answer the informal allegations about your financial status that are being made		1 40
		Writing you advising you of these allegations and asking you to let us have receipts for the sale of jewellery that you are alleged to have		2 50
	13	Meeting you discussing the problems with the jewellery principal eng. 5 mins.		10 50
	18	Long telephone call to you discussing whether or not you should abandon your defend, noting your concern to recover your personal possessions and discussing it fully with you. You are to think about it and give us your instructions later - principal eng. 20 mins.	9 10	10 50

- 18 At phone on you noting your suspicions that your husband has put an Enquiry Agent onto you and noting that you have confronted this person, who would not say who he was - long call
1 10 2
- At phone on you again when you gave us further information about the man and discussing the implications further - long call
1 10 2
- 20 At phone on Shepherd & Wedderburn discussing the motion for interim alimnet which is calling today long call
1 10 2
- at phone on Shepherd & Wedderburn again advising that we had tried to get in touch with you without success and giving our unofficial comments on the averments to be made by the other side at the calling of the motion - long call
1 10 2
- At phone on Shepherd & Wedderburn noting that you were awarded interim alimnet of £30 a week
1
- Writing you with regard to, inter alia, the jewellery 1 sheet charge half
1
- 24 Meeting you going over letter from Patrick & James and discussing their proposals for the settling of the whole matter by payment of a capital sum, the dropping of the claim for maintenance, and your raising an action of divorce - principal eng. 20 mins.
10
- 25 Long call to Messrs Patrick & James discussing their proposals - principal eng. 10 mins.
2 10 3
- At phone on Patrick & James again noting your husband's comments on the various proposals - principal eng. 10 mins.
2 10 3
- 26 At phone on Shepherd & Wedderburn advising them of the recent developments
1
- 27 Writing you bringing you up-to-date with our negotiations with your husband's Solicitor and setting out the proposed terms for the sake of clarity - 2 sheets
5
- 28 At phone on you noting that you are happy with the settlement terms, but adding some further items to the list of personal possessions that you wish to be returned - long call
1 10 2
- 5 Writing Messrs Patrick & James setting out the terms of the agreement as we understand them - 4 sheets
10
- 8 Long attendance at phone on Patrick & James discussing further - principal eng. 15 mins.
3 85 5

Note: The agreement involved the drawing up of a Minute of Agreement, Discharge of maintenance rights by the applicant and by her husband, Renunciation of Occupancy Rights again by both parties. The work done in connection with these matters has been

49 40

-6-

B/F

344 2

	Long attendance at phone on Patrick & James discussing all aspects of the divorce and the settlement, in particular various items that you wish to be returned to you - principal eng. 15 mins.	3 85	5 24
	At phone on you advising you thereon		1 40
	Another long phone call to you discussing the whole matter again at length - principal eng. 10 mins.	1 10	3 50
	Meeting you going over the list of items that your husband is prepared to hand over to you - principal eng. $\frac{1}{2}$ hr.		10 50
	Long attendance at phone on Patrick & James discussing these items in detail - principal eng. 15 mins,	3 85	5 25
	Another long attendance at phone on Patrick & James discussing further arrangements for settling of the divorce action, and in particular the delivery of your personal possessions - principal eng. 10 mins.	2 10	3 50
	Long attendance at phone on you putting to you the comments of your husband given to us yesterday and noting your own further comments - principal eng. 15 mins.	3 85	5 25
	Another long call to Patrick & James discussing further eng. 10 mins.	2 10	3 50
	Sending telex to Patrick & James with a revised list - 2 sheets <i>(see above)</i>	3 60	5 00
	Writing you with copies of our telex to Patrick & James and their reply		0 70
	Copies - 4 sheets		2 80
	Long attendance at phone on you discussing the telexes and whether we should carry on negotiations. principal eng. 10 mins.	2 10	3 50
	At phone on you noting that you have sent off a revised list of personal possessions to us		1 40
	Perusing list received today		2 75
	Sending Patrick & James further telex with revised list - 3 sheets <i>as above</i>	6 10	7 50
	At phone on Patrick & James discussing the list further and noting that we are near agreement - long call	1 10	2 50
	Writing you enclosing copy letter from Patrick & James with regard to the personal possessions claimed		0 70
	Copy - 2 sheets		1 40
	At phone on you noting your comments thereon - long call	1 10	2 50

At phone on Patrick & James advising them that everything is now agreed	1	40
110 Writing telex to Patrick & James confirming	2	50
At phone on Patrick & James noting that your husband proposes to come up to Aberdeen with your personal possessions	1	40
At phone on you advising you of this	1	40
10 At phone on Patrick & James confirming the arrangements and advising that the items should be delivered to our office	1	40
11 At phone on Patrick & James noting the time when your husband will call	1	40
At phone on you advising you of the final arrangements and making arrangements for you to collect your possessions	1	40
12 Drawing list of items that are to be delivered for your attention	2	50
Writing you with copy of list advising you that we will phone as soon as they are available for collection	2	50
Copy 2 sheets	1	40
Meeting your husband when he called to hand over the personal possessions and signing a receipt - principal eng. 1/2 hr.	10	50
5 25 At phone on you reporting that everything is ready for collection	1	40
Writing Shepherd & Wedderburn with our detailed account	0	70

86 60		
1954 10.40	Posts and incidents at 12%	53 17

10 50	Framing, extending & making copy Account 17 shs.	£ 496 22
	Attendance at taxation. Eng. 1/2 hr.	17 50
126	Posts & incidents	11 00
	V.A.T. @ 15% on £ 528. 14-	3 42
		79 20

16 31 I certify that the assisted person received Legal Advice & Assistance in connection with the subject matter of the proceedings in this case and the account for the work done is submitted herewith and has not yet been paid, and that no item included in that account is entered in this account. I also certify that no agency passes.

125-07

Richard J. Ward
 (Nominating) Solicitor

Auditors Fee £20.00

482 29

607.36

125 07

TAXATION

7th September

.....198

THE LAW SOCIETY OF SCOTLAND

LEGAL AID MEMORANDUM

From [REDACTED]

To [REDACTED]
Civil Accounts:

37/66/216039/82 - [REDACTED]

This was a case with which you were dealing and which proceeded to Taxation on the 5th September 1984. The Local correspondent's account only was lodged for Taxation.

The main point in dispute related mainly to charges which had been entered in respect of telephone calls. Throughout the account, which was an account in respect of a Divorce Action charged on the Court of Session Table of Fees, lengthy telephone calls had been charged on the basis of time engaged or alternatively the calls were charged on the basis of lengthy letters. The Auditor was invited to restrict these charges to the standard rate for telephone calls appearing in the Court of Session Table of Fees, Chapter 1. The Agents invited the Auditor to apply his discretion in allowing these charges. As expected, the Auditor advised that in terms of the General Regulations, he had no discretion on matters such as this and accordingly he must uphold our views and restrict the charges accordingly. At this point, the Auditor requested to learn if the remaining abatements on the account were agreed. I advised that the correspondence indicated agreement had been reached on the remaining abatements. The representative from Messrs. Shepherd & Wedderburn then provided the Auditor with a photo-copy of the account containing your abatements. Presumably the account will now be adjusted on that basis.

THE LAW SOCIETY OF SCOTLAND

LEGAL AID MEMORANDUM

FROM

To

Accordingly, I would suggest that when the principal account is returned to you, this is passed for payment. As the Taxation was on a joint remit, the principal account does not form part of Process and accordingly does not require to be returned. I have indicated on our copy of the account some items which would have perhaps raised, had matters gone against us. When the principal account is returned to you perhaps you would go through our photo-copy of the account and delete any further items which I have marked, which were not raised by yourself originally. Our photo-copy of the account together with a copy of this Memo should be retained within the Department for record purposes.