

CIVIL ACCOUNTS PAYABLE

Report on Taxation

Assisted Person [REDACTED] HC
Reference Number 33/96/805823/88 & AA/03/8037974/88
Solicitor Campbell Smith & Co
Nature of Proceedings To Defend - Repossession of Heritable Property
Auditor J. Haldane Tait, Edinburgh
Taxation Date; 26th June 1989
Total Civil Claim (excl VAT) 105.38
Sum taxed at (excl.VAT) 39.61
Total of A&A claim (excl VAT) 120.67
Sum taxed at (excl VAT) 83.95

Background

The Solicitor submitted two accounts for the above case, one under the Advice & Assistance Certificate and the other against the Civil Legal Aid Certificate.

The Advice & Assistance account contained charges in connection with general advice and preparation of the civil application for legal aid. The account was abated for the following reasons; 1) the Solicitor exceeded the initial expenditure prior to obtaining a grant for an increase in expenditure and 2) the client was in receipt of an emergency legal aid certificate and therefore in terms of Section 7 of the Legal Aid(Scotland) Act 1986 advice & assistance does not apply to advice provided in connection with proceedings when a civil certificate is in force.

The civil account was abated as detailed charges for legal aid work were claimed in addition to the block fees laid down in Chapter IV of the Sheriff Court Table of Fees. On 8th February 1988 the Board agreed that the practice of paying for legal aid work(post grant) should cease.

The Solicitor was not prepared to accept the proposed abatements and simply submitted the accounts for taxation on a single remit.

Taxation

The Auditor was informed of the Boards reasons for abating the advice & assistance account and he agreed with the views expressed having quite recently ruled in favour of the Board on the effective date of an increase in expenditure in the case of [REDACTED]. MC

With reference to the civil account, the Auditor was referred to the Table of Fees in Civil Proceedings, Schedule 2, No. 3(2) which states that the fees for work to which Chapter IV OR V of the Table of Fees applies shall be chargeable only on the basis prescribed in those Chapters.

Cont/d.....

2/.....

The Auditor agreed that there was no scope for the work to be charged on any basis other than Chapter IV and the Solicitors simply had to accept the position.

A further point arose in connection with Schedule 2, No. 5(f) which stipulates the percentage reduction appropriate to the fees chargeable under Chapter IV. It is clearly stated in the Legal Aid Table that fees in connection with all actions for recovery of heritable property are subject to a 50% reduction and accordingly such a restriction should apply to the block fees claimed in the above case. However it was noted in the private fees, Act of Sederunt (Fees of Solicitors in the Sheriff Court) 1988 (S1.681)(S75) General Regulations No. 14(f) 3 that a 50% reduction only applied in actions for recovery of possession of heritable property, "if not defended." The Solicitor expressed the view that the omission of the words "if not defended" from the Legal Aid Table was unfair and the Auditor suggested that he should possibly make representation to the Law Society with a view to bringing this part of the Legal Aid Table in line with the Private Table of Fees.

At the conclusion of the taxation the Auditor suggested that if the Solicitor was prepared to accept his views, then he should simply withdraw the accounts from 'taxation' and place them before the Board for payment whereupon he would charge no audit fee. This course of action was duly approved by everyone present at the taxation.

10 July, 1989

JOHN H. CRAWFORD, W.S.
DAVID J. T. HENDERSON, W.S.
* ERIC J. SCOTT, W.S. *
MORAG E. D. MILLAR, W.S.

21 YORK PLACE
EDINBURGH EH1 3EN
Telephone : 031-556 3737

Rutland Exchange No. ED 51
Fax. 031-557 4069

OUR REF. EJS/CMcW

YOUR REF.

DATE 15th June, 1989

Scottish Legal Aid Board
Box No. 250
Rutland Exchange
Edinburgh

RECEIVED
CASH ACCOUNTS
20 JUN 1989

15 JUN 1989
A. B. H. 1077

Dear Sirs

REC'D BY B/K
20/6/89

[Redacted]

Ref: 33/96/805823/88

Taxation of our account has been fixed for Monday, 26th June, 1989 at 2 p.m.
The Auditor is Mr Haldane Tait, 8 Albany Street, Edinburgh EH1 3RQ.

Yours faithfully,

[Redacted signature area]

RECEIVED
16 JUN 1989
FORWARD TO
GATE
INITIALS

[Redacted signature area]

[Redacted footer area]

JOHN H. CRAWFORD, W.S.
DAVID J. T. HENDERSON, W.S.
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Telephone : 031-556 3737

Consultants :
GEORGE S. P. BAIN, W.S.
ERIC D. WALKER, W.S.

Rutland Exchange No. ED 51
Fax: 031-557 4069

OUR REF. JHC/CH

YOUR REF. DWA/MF/IM

DATE 12th April 1989

The Civil Accounts Department,
Scottish Legal Aid Board,
Box 250,
Rutland Exchange,
EDINBURGH.

Dear Sirs,

[Redacted] - 33/96/805823/88 ✓

We have your letter of 10th inst. with enclosures. The accounts are being submitted to the Auditor for taxation under regulation 17(3). We are not any longer prepared to tolerate want and decimation of our account in respect of work properly done on behalf of clients abated by reason of a unilateral interpretation of the regulations. The abatements you propose on this account constitute approximately 60% of fees which we feel properly entitled. Judging by past behaviour we have no doubt that the foregoing comments make no impression whatsoever upon you and despite all the soothing talk which emanates from the higher echelons in the Legal Aid Board there seems to be very little, if any, equity and fair play emanating from the lower orders.

Yours faithfully,

[Redacted signature area]

Handwritten initials: J - C

[Redacted signature area]

RECEIVED
ACCOUNTS
APR 1989

THE SCOTTISH LEGAL AID BOARD

44 Drumsheugh Gardens
 Edinburgh, EH3 7SW
 Rutland Exchange No: ED250
 031 226 7061

ERIC J SCOTT
 CAMPBELL SMITH & CO
 SOLICITORS

 RE BOX ED51 EDINBURGH

Date : 20/06/88
 Sols. Ref : EJB
 Sols. Code No. : 00329

ADVICE AND ASSISTANCE ACKNOWLEDGEMENT

THIS ACKNOWLEDGEMENT OF AN APPLICATION FOR ADVICE AND ASSISTANCE ON BEHALF OF THE UNDER-NOTED IN TERMS OF THE ADVICE AND ASSISTANCE (SCOTLAND) REGULATIONS 1987 SHOULD BE SUBMITTED TO THE SCOTTISH LEGAL AID BOARD WITH YOUR ACCOUNT WITHIN 6 MONTHS OF COMPLETION OF THE ADVICE AND ASSISTANCE.

Reference no. : AA/03/8037974/88

[REDACTED]

[REDACTED]
 EDINBURGH

Sub Matter: RENT ARREARS REPOSS
 Effective Date: 07/06/88
 Client's Contribution: £33
 Category: 03 (For Official Use)

PLEASE QUOTE THE ABOVE REFERENCE NUMBER IN ALL CORRESPONDENCE

TO BE COMPLETED BY SOLICITOR	
A. (Where no claim is to be made) I make no claim in respect of this certificate.	B. (Where minimum claim is to be made) I accept minimum payment in respect of this certificate.
Date.....	Date.....
Signature.....	Signature.....

- C. (Where claim is made)
- Was any money or property, or were expenses recovered or preserved?
 - If not, was the subject matter of Advice and Assistance likely to lead to a settlement being achieved? (If so the full reasons for submitting the Account at this stage must be attached).
 - Has the subject matter proceeded, or is the subject matter likely to proceed to an Application for Civil/Criminal Legal Aid?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
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 - Did you provide assistance by way of representation? (If the answer is yes please complete form AA/CR/2).

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
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CERTIFICATE

Having made the necessary enquiries, I certify that the items charged in the Account are accurate and represent a complete record of the work done, and further that these items have not been charged in any other Account.

Date 27/8/89 Signature of Solicitor [Signature]



ADVICE AND ASSISTANCE (SCOTLAND) CIVIL

Request for an increase in authorised expenditure - 9 JUN 1988

Part A to be completed by Solicitor in duplicate. Both copies to be submitted to the Board (No covering letter required. One copy will be returned to Solicitor with Board's decision thereon).

PART A

Eric J. Scott, W.S.,
Campbell Smith & Co., W.S.,
21 York Place
Edinburgh EH1 3EN

Solicitor's name and address. (Complete in typescript within box above.)

*Reference No:.....

*Form AA/1 attached

Applicant's Name:.....

Solicitor's Ref:..... EJS

Date of Request:..... 8th June, 1988

Total authorised expenditure sought: £ 200.00

*Delete as appropriate

Please state here reasons for request (continue on reverse if necessary).

The Applicant has consulted us in connection with proceedings raised by Edinburgh District Council for re-possession of her tenancy. The Council alleged that there are arrears of rent of £811.00. Our client accepts that, at the end of last year, there was outstanding arrears of about £240.00, which she was paying off. A re-assessment of her means then took place and this was backdated, which appears to account for the increase in the arrears of rent. The Council have advised us by telephone that this re-assessment brought about further arrears of £270.00 but in actual fact it seems to have increased the arrears figure by some £600.00. Our client has therefore asked us to look into the matter and to challenge the amount of arrears. Furthermore, we have attempted to negotiate a settlement with the District Council, but they have refused and advise that, although this is the first incidence of arrears of rent in respect of Mrs Carruthers' tenancy, they will be insisting on Decree when the case calls. In these circumstances, we have prepared a Legal Aid application. We anticipate that the Sheriff will refuse to grant Decree at this stage and will give Mrs Carruthers an opportunity to repay the arrears at an appropriate rate. We require an increase in authorised expenditure to cover our negotiations and future correspondence and meetings with [redacted].

Signed [Signature]

PART B DECISION OF BOARD ON ABOVE REQUEST

authorised expenditure increased to: £ 200.00

request for an increase in authorised expenditure refused

13 JUN 1988

Signed [redacted]

for and on behalf of the Board

Messrs. Campbell, Smith & Co.,
21 York Place, Edinburgh,
EH1 3

ACTION [REDACTED] B1

LEGAL AID CODE 0329

LEGAL AID REF AA/03/8037974/88M200

1988

JUNE	7	Attendance on [REDACTED] discussing the position with her obtaining full particulars and advising and obtaining statement going over legal aid papers and having same executed thereafter attendance at telephone with Edinburgh District Council discussing with them and obtaining details thereafter completing forms and assessing contribution 1 hour 20 mins	39	60
		Fee for drawing precognition of [REDACTED] 2 shts	0	00
		Attendance preparing application for legal aid	2	90
		Making 3 copies	1	40
		Attendance preparing statement of facts for applicant 10 mins	5	00
		Making 3 copies 2 shts each <i>all exhausted</i>	2	90
		Attendance preparing application for emergency certificate together with statement of emergency	2	90
		Making 3 copies	1	40
JUNE	8	* Writing SLAB reporting the position in detail and requesting an increase in the authorised expenditure 2p 15 mins <i>Civil Effective 14/8</i>	7	
		Paid postage	0	18
		Paid telephone outlays to Edinburgh District Council	0	22
		Writing SLAB enclosing legal aid papers and with regard thereto (duplication)	3	
		Paid postage	0	20
		Serving legal aid papers (duplication)	3	
		Paid postage	0	18
JUNE	10	Attendance on [REDACTED] advising her of the position and with regard to further procedure 2p 15 mins	7	
		Paid postage	0	18
		AA INCREASE 200	0	96
		CARRIED FORWARD	78	

0-96P

22-00

13/6/88

BROUGHT FORWARD

0 96 78 40

1988

JUNE 27 Writing Housing Dept reporting that we act that the legal aid application had been intimated to them and advising that Emergency Legal Aid has been granted to our client that if they to seek the expenses of the action they should intimate same to us as we would wish to move for a modification ✓
3 50

Paid postage X 0 18

C-36

7-10-74

JULY 27 Writing [redacted] reporting that we have been contacted by the District Council who has advised that she has not been maintaining regular payments that they have agreed to continue her case for a further 7 weeks and advising her strongly to make the fortnightly payments 3 50

Paid postage X 0 18

EXPIRED 29th July

SEPT. 13 Writing [redacted] acknowledging her letter and returning her rent book and advising regarding the position stressing that she must continue to pay #53 per fortnight that if she fails to do so when the case next calls she will be evicted 3 5

Paid postage 0 19

SEPT. 14 Attendance at telephone with District Council discussing the position with them 2 5

Paid telephone outlays 0 22

OCT. 19 Writing [redacted] advising of the letter received from the Legal Aid Board and advising of the offer of Legal Aid and the contribution she requires to make 2p 15 mins 7

Paid postage 0 19

NOV. 1 Attendance with [redacted] discussing the position with her and the question of the arrears 30 mins 15

NOV. 7 Writing [redacted] advising her regarding the position 3

Paid postage 0 19

NOV. 21 Attendance perusing correspondence from SLAB in which they advise that legal aid application has been abandoned 0

2 11 118
2

120

Offer 83-21
2-79
82-50

270 (89)

BUSINESS ACCOUNT

incurred to

MESSRS CAMPBELL SMITH & CO

in causa



Civil

33/9W/605823/88

3

1988

June	8	Attnd at phone with the Legal Aid board when they reported that they were granting an Emergency Cert.	1 60
	8	Attnd at phone with [redacted] further discussing	1 60
		Serving Legal Aid papers (See AA of)	3 15
		Wtg the Scottish Legal Aid Board reporting the petition and enclosing papers in support of our client's application (See AA of)	3 15
		Making copy of Summons for the Legal Aid Board 2 shs	1 42
	9	Attnd at Court Hearing	---
		Perusing Emergency Cert	3 15
		Making copy	71
		Lodging same	1 00
		Fee on instructions for <i>See % reduction</i>	* 42 25

1638

* 42 25

B/P

1988

June	9	Attd at Court waiting 11.00 - 12-15 Hearing <i>50% Deduction</i>	★ 17 55
		Attd at Hearing 12.15 - 12.30 p.m. <i>50% Deduction</i>	★ 10 95
Oct	19	Wtg [redacted] with regard to the offer of Legal Aid which has now been made to her	3 15
Nov	5	Attd at Court at further continued on of the case to 5 January 1989	--
		Framing Stage Report 4	1 65
		Extending and 2 copies	1 38
		Wtg SLAB enclosing Stage Report 4	80
			<hr/>
			96-09
Posta and incidents 12%			6 11-29
			<hr/>
			105-38
Add outlays			--
			<hr/>
			105-32
			<hr/>

3-15

3-81

I CERTIFY that the Assisted Person did received Advice and Assistance in connection with the subject matter of the proceedings in this case and the account for the work done was paid on 19 at the sum of £ or was submitted on 19 and has not yet been paid and that no items included is entered in this account.