

COURT OF SESSION, SCOTLAND

R E P O R T

by

AUDITOR OF COURT

in the cause

[REDACTED]

Pursuer

IM v. CM & LM & HM

against

[REDACTED]

Defender

and

[REDACTED]

First Minuter

and

[REDACTED]

Second Minuter

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This dispute has been referred to the Auditor in terms of Regulation 12(1) of the Civil Legal Aid (Scotland) Fees Regulations 1989. Messrs. Brodies, Solicitors, the agents for the Assisted Person, and the Legal Aid Board were represented at the Taxation.

Reference was made to Regulation 4 of the said Regulations which provides inter alia "Solicitors shall be allowed such fees and outlays as are reasonable for conducting the proceedings in a proper manner and between a Solicitor and client Third Party paying."

The Legal Aid Board took specific exception under these two Regulations to two entries on page 12 of the Account:

Revising Record thereafter received - 18 shs £9.80

Paid duplication charge of Record - 18 shs £126.90.

They referred to paragraph 2.5 of the 1994 edition of the Legal Aid Fees and Taxation Guidelines (Civil Legal Aid Fees) which states: "In those cases where the Solicitor prints the closed record in-house the Board will accept a charge of up to 30 minutes for the preparation and checking of the Closed Record. No revisal charge is appropriate. If a charge is to be claimed for "exceptional copying" (see paragraph 6 below), the number of sheets and the total number of copies made must be recorded in the account."

The outlay of £126.90 was not vouched and the Record had been prepared in-house. In these circumstances the agents were only entitled to the payment set out in 2.5.

Messrs. Brodies submitted that paragraph 2.5 was restricted to closed records. This was a record in a consistorial action where, in practice, adjustment of the pleadings may continue until a very short time before a hearing. It would not have been possible to instruct a Duplicating Agency because of the short time before the Proof. No mention of records in Consistorial actions is made in para. 2.5 and they

should be treated separately. They conceded that they were unable to produce an invoice as the work had been done in-house.

The Auditor accepts the Legal Aid Board's submission that, in absence of a vouched outlay to a Duplicating Agency that the disbursement of £126.90 should be disallowed.

The Auditor is unable to make any distinction between the preparation of a Closed Record and a Record in a family action. The purpose of both documents is to reflect the parties' pleadings and no proper distinction can be made between them. In these circumstances, the Auditor abates the charge of £9.80 for revising the Record.

EDINBURGH

6th November 1998