

1) THREE MAIN AREAS OF DISPUTE

Attendances with the client. 82 Attendances in total equalling 303¼ hours travelling and meeting with the client which equates to approximately two attendances per month for three years. I have allowed 21 attendances in total.

The basic problem is that they appear, in the main, to be comfort visits. This is a flavour of what the file notes are indicating.

- a) "His visits are now two a month and this is having a detrimental effect on him."
- b) "He still had no word whether he is an 'A' category prisoner or not."
- c) "He himself is in poor physical and mental shape."
- d) "[REDACTED] is now on stelizine medication, prescribed by Dr Kirk. This is an [REDACTED] medication noting [REDACTED] is extremely tense."
- e) "He has still not eaten although he has taken canned fluids occasionally."
- f) "[REDACTED] is more depressed than ever."
- g) "He appears to have improved considerably since he was last visited. He is still on anti-psychotic medication."

These are a few of the quotes taken from his file notes that are in dispute.

2 FAMILY ATTENDANCES

Again they appear to be comfort visits. Indeed, many of the attendances with [REDACTED] emanate from instruction he has taken from the client, examples are:

- a) "Attendance with [REDACTED] and [REDACTED], the accused's sisters. They are increasingly concerned about his health."
- b) "One call to [REDACTED] The man in the cell next to John at Perth has been on dirty protest and they are refusing to treat because of the conditions in the next cell."
- c) "Attendance with [REDACTED] senior. [REDACTED] has many questions and queries which he wishes to ascertain as their son is in daily contact with them and at the moment things appear to be getting out of proportion."

Again, some of the examples used in these file notes.

3) PREPARATION AND PERUSALS

93¾ hours are spent on preparation and perusals and the file notes lack specification for everything, for example:

- a) "Preparing for appeal."
- b) "Perusing fax statements of [REDACTED]. These are important matters and lengthy perusal and checking them against the other facts of the case four hours."

In relation to the preparation and perusals, I have been unable to make any kind of firm offer as the file notes are so lacking in any kind of specification of what work has been undertaken.

It should also be noted that both senior and junior are claiming preparation at £3,255.00 and £5,700.00, respectively, and we are currently negotiating with them.

ATTENDANCE WITH CLIENT

(TOTAL)

①

9 May 1994	£147.70	11 April 1995	£168.80
13 May 1994	£84.40	21 April 1995	£168.80
18 May 1994	£116.05	2 May 1995	£179.35
23 May 1994	£84.40	16 May 1995	£126.60
3 June 1994	£105.50	31 May 1995	£168.80
10 June 1994	£94.95	7 June 1995	£189.90
24 June 1994	£84.40	6 July 1995	£168.80
8 July 1994	£147.70	13 July 1995	£168.80
21 July 1994	£168.80	24 July 1995	£189.90
12 August 1994	£168.80	16 August 1995	£168.80
1 September 1994	£189.90	6 September 1995	£126.60
7 September 1994	£189.90	28 September 1995	£179.35
16 September 1994	£232.10	10 October 1995	£189.95
29 September 1994	£189.90	25 October 1995	£189.95
13 October 1994	£179.35	3 November 1995	£189.95
1 November 1994	£200.45	9 November 1995	£189.95
15 November 1994	£189.90	21 November 1995	£179.35
24 November 1994	£189.90	4 December 1995	£179.35
30 November 1994	£189.90	15 December 1995	£165.50
6 December 1994	£189.90	16 January 1996	£168.80
12 December 1994	£189.90	24 January 1996	£105.50
22 December 1994	£189.90	2 February 1996	£105.50
30 December 1994	£168.80	8 March 1996	£189.90
9 January 1995	£189.90	19 March 1996	£147.70
20 January 1995	£200.45	15 April 1996	£189.95
7 February 1995	£168.80	8 May 1996	£189.90
1 March 1995	£158.25	9 May 1996	£337.60
9 March 1995	£200.45	10 May 1996	£179.35
21 March 1995	£179.35	23 May 1996	£126.60
31 March 1995	£158.25	19 June 1996	£179.35
	£4947.95		£5148.40

ATTENDANCE WITH CLIENT

(2)

17 July 1996	£189.90
31 July 1996	£189.90
17 August 1996	£168.80
26 August 1996	£211.00
9 September 1996	£94.95
19 September 1996	£189.90
1 October 1996	£94.95
18 October 1996	£94.95
1 November 1996	£84.40
8 November 1996	£84.40
27 November 1996	£105.50
20 December 1996	£84.40
3 January 1997	£105.50
14 January 1997	£116.05
30 January 1997	£126.60
4 February 1997	£126.60
14 February 1997	£105.50
7 March 1997	£168.80
20 March 1997	£105.50
18 April 1997	£189.90
12 May 1997	£63.30

£2700.80

Total No of Attendances = 81

Total £12797.15

Attendances Allowed (WITH CLIENT)

9 May 1994
24 June 1994
1 November 1994
30 December 1994
22 December 1994
7 February 1995
21 March 1995
2 May 1995
5 July 1995
13 July 1995
21 November 1995

12 February 1996
16 May 1996
17 August 1996
26 August 1996
1 October 1996
1 November 1996
27 November 1996
20 December 1996
7 March 1997
12 May 1997

Attendance with relatives (DISPUTED)

[NOTE: SHORT PHONE CALLS ALLOWED]

31 May 1994	£42.20
16 June 1994	£52.75
18 October 1994	£21.10
19 October 1994	£21.10
31 October 1994	£21.10
31 October 1994	£21.10
9 November 1994	£10.55
15 November 1994	£10.55
16 November 1994	£10.55
30 November 1994	£10.55
7 December 1994	£10.55
12 December 1994	£10.55
11 January 1995	£31.65
6 March 1995	£10.55
5 September 1995	£10.55
2 November 1995	£10.55
24 January 1996	£10.55

Attendances with Relatives (Contd)

7 October 1996	£42.20
11 October 1996	£10.55
31 January 1997	£10.55
February 1997	£10.55
28 February 1997	£10.55

Total = 22
 Total £400.90

PREPARATION

(TOTAL)

(DISPUTED FOR LACK OF INFORMATION
AS TO WHAT WORK DONE]

(5)

19 August 1996	£211.00
20 November 1996	£168.80
20 November 1996	£158.25
25 November 1996	£126.60
26 November 1996	£147.70
17 January 1997	£147.70
19 January 1997	£105.50
20 January 1997	£42.20
21 January 1997	£253.20
22 January 1997	£168.80
7 May 1997	£263.75
7 May 1997	£126.60
9 May 1997	£348.15
11 May 1997	£168.80

Total

PREPARATION

6 April	£633.00
12 February 1996	£126.60
13 February 1996	£147.70
14 February 1996	£84.40
15 February 1996	£253.20
6 May 1996	£105.50
7 May 1996	£168.80

£3956.25



POINTS OF OBJECTION

by

SCOTTISH LEGAL AID BOARD

Case: [REDACTED]-v- H.M.A
Nature of Case: Appeal
Solicitors: John Macauley & Co., Solicitors, Glasgow
Date of Taxation: Thursday 10 June 1999 at 2.30pm

A question or dispute has arisen in terms of the Criminal Legal Aid (Scotland)(Fees) Regulations 1989 Regulation 11(1), requiring the matter to be referred for taxation to the Auditor of the Court of Session.

Regulation 7(1) of the said Fees Regulations provides that 'a solicitor shall be allowed such amount of fees as shall be determined to be reasonable remuneration for work actually and reasonably done, and travel and waiting time actually and reasonably undertaken or incurred, due regard being had to economy'. It is considered by The Scottish Legal Aid Board that a solicitor, before incurring substantial expense, must make every effort to satisfy himself that the costs to be incurred are reasonable and that the way in which work is carried out or an outlay is incurred is the most efficient and cost effective way possible.

This is a lengthy account which will require to be dealt with substantially on an item by item basis. The following is a list of the issues which are likely to arise many of which appear on a number of occasions during the course of the account.

The issues are:-

- Work carried out prior to emergency cover under regulation 15 granted.
- Regulation 15 cover granted on 9 May 1994 for marking and lodging Note of Appeal, obtaining counsel's opinion on prospects and instructing Edinburgh agents for this.
No sanction for senior counsel until full appeal certificate in force i.e. 13 September 1994.
- Family and friends updating and advising.
- Work carried out in connection with separate and distinct matters
 - (a) Petition to Nobile Petition
 - (b) Press enquiries
 - (c) Recovery and compensation of property i.e. a pair of jeans
 - (d) Prison conditions, administration, transfers and categories, segregation, clients treatment (non-medical), access to money.
 - (e) Aspects of the accused's health which do not have any bearing on the case and his medication.

- (f) Problems with clients behaviour in prison.
- (g) Complaints to Secretary of State and other bodies.
- (h) Re: parole
- (i) Re: employing private doctor.
- (j) Return of dice confiscated by wardens.

- Similar letters attract formal rate only.
- Copies where under 20 sheets of a document or where originals lost and extra claim made.
- Preparation for which no full details are available and lacking in specification.
- Unnecessary letters
- Perusal, no detailed breakdown or why certain documents took so long to read or were necessary to read, to include written submissions by counsel.
- Framing of counsel's notes or file notes.
- Charge for instructing Sheriff Officer's is £6.00, to include the instructing, perusal of citation and the payment.
- Local Edinburgh agents were not instructed to attend at the Justiciary Office re appeal date and procedure.
- The need to take statements from various witnesses.
- Excessive number of consultations with client.
- Non-sanctioned work.