

## NOTE BY THE AUDITOR OF COURT

PB v CR



The above action was finally disposed of in January 1999 at Linlithgow Sheriff Court. The Pursuer was granted Legal Aid and represented by Messrs Caesar & Howie, Livingston. In normal course those agents submitted their account to the Scottish Legal Aid Board. The Board made certain abatements, which were not accepted by said Agents and the matter was referred to me, as Sheriff Court Auditor, in terms of regulation 12 of the Civil Legal Aid (Scotland) (Fees) Regulations 1989. A diet of taxation was fixed for 26 August 1999 and was attended by [REDACTED] on behalf of the Board and [REDACTED] Law Accountant, on behalf of Caesar & Howie.

It transpired there was only one entry in dispute, on page 7 of the account, namely "Agency settling same - £6". This entry related to the settlement by agents of the cost of placing an entry in the Evening News in the form of citation of one of the defenders, whose whereabouts were unknown. The actual cost of the advert was included as an outlay and not disputed. It was accepted by both sides that the proper figure was £6.20 in terms of the schedule 3 of the Civil Legal Aid (Scotland) (Fees) Regulations 1989, under which the account had been drawn. In essence the dispute was whether the settling of the invoice was chargeable as a "non formal" letter under paragraph 4 (g) of the regulations (£6.20) or as a formal letter under paragraph 5(f) (£2.45).

[REDACTED] was unable to produce a copy of the letter, however accepted the actual wording would not go beyond enclosing a cheque in settlement of the invoice. Notwithstanding this, he submitted the higher charge should be allowed to reflect "extra" work incurred by the Solicitor, such as receiving and checking the invoice, dictating and signing the letter. In reply, [REDACTED] submitted the matter could not be charged as any more than a formal letter and the £2.45 under paragraph 5(f) should be applied.

Having considered the arguments put forward I came to the view that the lesser amount was applicable. In reaching this decision I equated the entry to one commonly seen in party/party judicial taxations where the pursuer sends a letter enclosing an Initial Writ along with a cheque in settlement of the court fee - i.e. a formal letter settling a due outlay.

Accordingly I hold the entry in question should be "taxed" at £2.45.

A handwritten signature in black ink, appearing to read "R.D. Sinclair".

R.D. SINCLAIR  
Auditor of Court  
LINLITHGOW