

NOTE BY THE AUDITOR OF COURT

RJ v SJ



A minute to vary in the above action was finally disposed of in November 1998 at Linlithgow Sheriff Court. The Defender (Minuter) 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 the 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 16 September 1999 and attended by [REDACTED] on behalf of the Board, Mr Monaghan of Caesar & Howie and [REDACTED] Law Accountant.

There were two areas of dispute. Firstly the fee allowable to a solicitor for completion of required forms when lodging a motion in a Sheriff Court action (forms G6 to G9 of appendix 1 to the 1993 Ordinary Cause Rules) and secondly fees allowable in respect of pre-court preparation.

Forms G6 - G9

I was required to determine whether the fee allowable for completion of these forms should be £6.20 (para 4(a) of schedule 3 to the regulations) or £2.45 (para 5(c)) - i.e. whether the completion (framing) of said forms was formal or not. I considered each form separately. Form G6, which details the terms of the motion I held as not formal and allowable at the higher rate - a point readily conceded by [REDACTED]. Form G7 at first sight appeared formal, however I ruled it also should be allowed at the higher rate, principally on the basis of necessary calculation of the last date for lodging opposition. Forms G8 and G9 I held as formal and accordingly chargeable at the lower rate.

Pre-Court preparation

I was addressed on various entries within the account in relation to pre-Court preparation and ruled as follows -

Proof 7 October 1997 - 4 hours claimed - 2 hours allowed.

Continued Proof 14 October 1997 - 2 hours claimed - 1 hour 15 minutes allowed.

Continued Proof 17 October 1997 - 2 hours claimed - 1 hour 15 minutes allowed.

Continued Proof 23 January 1998 - 5 hours claimed - 4 hours allowed on the basis of necessary reading of notes of evidence, not otherwise claimed.

Continued Proof 30 January 1998 - 30 minutes claimed - 15 minutes allowed.

Procedure Roll hearing 17 June 1998 - 20 minutes claimed - 15 minutes allowed.

Hearing on expenses 30 September 1998 - 35 minutes claimed - 30 minutes allowed.

Hearing on motion for uplift of fees 10 November 1998 - motion subsequently granted - 35 minutes claimed - 30 minutes allowed.

A handwritten signature in black ink, appearing to read "R.D. Sinclair". The signature is written in a cursive style with a prominent initial "R" and "D".

R.D. SINCLAIR
AUDITOR OF COURT
LINLITHGOW