

**IN THE HOUSE OF LORDS**

87

Sept 2013

Part 1

**BILL OF COSTS**

Incurred by

**THE RESPONDENTS**

On Appeal

**FROM THE FIRST DIVISION OF HER MAJESTY'S COURT OF SESSION IN SCOTLAND**

Between

[Redacted]

ND

)

**APPELLANT**

And

**THE CHIEF CONSTABLE, STRATHCLYDE,  
POLICE, Police Headquarters, 173 Pitt  
Street, Glasgow**

)  
)  
)

**RESPONDENT**

**Agents :** Hennessy Bowie & Co  
Solicitors  
48 West Regent Street  
Glasgow

Simpson & Marwick WS  
18 Heriot Row  
Edinburgh EH3 6HS

[Redacted]

Lewis Silkin  
Solicitors  
Windsor House  
50 Victoria Street  
London

[Redacted]

[Redacted]

This is an appeal from an Interlocutor of the First Division of the Court of Session, dated 5<sup>th</sup> March, 1998, whereby Their Lordships of the First Division unanimously recalled the Interlocutor of Lord Dawson dated 6<sup>th</sup> November 1996 and pronounced Decree for payment by the Respondent to the Appellant of the agreed (in the circumstances determined by the First Division) sum of £1,500.00.

The appeal raises the question of Evidence – Opinion evidence – Medical evidence – Experts differing on whether multiple sclerosis caused as a result of whiplash injury sustained by pursuer – Assessment of expert evidence – Balance of probabilities – Circumstances in which appeal Court entitled to assess evidence de novo.

Reparation – Negligence – Road Traffic Accident – Causation – Pursuer suffering from multiple sclerosis allegedly as a result of sustaining whiplash injury in road accident – Whether multiple sclerosis caused by negligence of defender – Conflicting expert evidence – Balance of probabilities.

The following rates have been applied throughout the Bill of Costs: -

	£
Senior Partner – per hour	<del>450.00</del> 110.00
Junior Partner – per hour	<del>425.00</del> 100.00
Qualified Assistant – per hour	<del>400.00</del> 90.00
Unqualified Assistant – per hour	75.00
Copyings - per sheet	0.25

Note

No charge made throughout the account for consideration of incoming letters.

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13

**JUDGMENT**

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**Die Jovis 9 Martii 2000**

Upon Report from the Appellate Committee to whom was referred the Cause the Chief Constable of Strathclyde Police, That the Committee had heard Counsel as well on Monday the 14<sup>th</sup> and Tuesday the 15<sup>th</sup> and Wednesday the 16<sup>th</sup> days of February last upon the Petition and Appeal of Nicholas Mark Dingley of 12 Inverewe Drive, Deaconsbank, Glasgow, praying that the matter of the Interlocutors set forth in the Schedule thereto, namely Interlocutors of an the Lords of Session in Scotland of the First Division of the Inner House of the 5<sup>th</sup> day of March and of the 24<sup>th</sup> day of April 1998, might be reviewed before Her Majesty the Queen in Her Court of Parliament and that the said Interlocutors might be reversed, varied or altered or that the Petitioner might have such other relief in the premises as to Her Majesty the Queen in Her Court of Parliament might seem meet; as upon the case of the Chief Constable of Strathclyde Police lodged in answer to the said Appeal; and due consideration had this day of what was offered on either side of this Cause:

It is *Ordered* and *Adjudged*, by the Lords Spiritual and Temporal in the Court of Parliament of Her Majesty the Queen assembled, That the said Interlocutors of the First Division of the Inner House of the Court of Session in Scotland of the 5<sup>th</sup> day of March and the 24<sup>th</sup> day of April 1998 be, and the said are hereby, **Affirmed** and that the said Petition and Appeal be and the same is hereby, dismissed this House: And it is further *Ordered*, That the amount of the respondent's costs to be paid by the appellant as an assisted person be modified to nil under the provisions of the Legal Aid (Scotland) Act 1986 and that the costs of the respondent in this House to be paid out of the Legal Aid Fund in accordance with section 19 of the Legal Aid (Scotland) Act 1986, such order to be suspended for four weeks to allow the Legal Aid Board to object if they wish.

Sep-1998	Petition of Appeal Item 9.1 (a) Receiving Petition and examining same, instructing Counsel to prepare Statement of Facts, entering appearance in the House of Lords, considering letter from the Judicial Office and instructing Counsel to advise regarding the length of Hearing	Partner Engaged 1 hour 30 mins Letters sent - 20 Telephone calls - 2	110.00 225.00 110.00 300.00 30.00 <u>240.00 555.00</u> 120.00 277.50		362.00 <del>610.50</del> -832.50	469.50
	(b) Care and attention at 50%					
29-Sep-1998	Paid Appearance fee			200.00		
12-Nov-1998	Incidental Petitions Item 10.1 (a) Considering Petition for extension of time and arranging for signing of same and advising	Partner Engaged 15 mins Letters sent - 3	37.50 45.00 <u>82.50</u>		81.68 <del>111.37</del>	27.63
	(b) Care and attention at 35%		28.87			
8-Jan-1999	(a) Examining further Petition for extension of time and consenting to same	Partner Engaged - 15 mins Letters sent - 5	37.50 75.00 <u>112.50</u>		111.38 <del>151.87</del>	40.42
	(b) Care and attention at 35%		39.37			
19-Feb-1999	Documentation Item 11.1 (a) Drawing Statement of Facts, Appendix, considering Appellant's Statement of Facts and Appendix, attending on Counsel	Partner Engaged - 3 hours Letters sent - 17	330.750.00 187.255.00 <u>517.00 1,005.00</u>		775.50 <del>1105.50</del> 1,708.50	733
	(b) Care and attention at 70%		258.50 703.50			
13-Jun-1999	Paid P.H. Brodie QC - Fee for attending on Judicial Committee at the House of Lords, preparing Note for Judicial Committee: and Note by Senior Counsel		* 750.00 <del>500.00</del> 2,000.00			
	Paid P.H. Brodie QC - Fee for revisal of Statement of Facts and Issues and Note		* 500.00 <del>500.00</del>			500
	CARRIED FORWARD			2,700.00	2,804.24	

1-Feb-2000

BROUGHT FORWARD

2,700.00 2,804.24

Documentation

Item 11.1

(a) Drawing of Amended Statement of Facts following upon a Hearing ordered by the House of Lords, correspondence with Counsel regarding Hearing, revision of documentation and perusal of documentation in respect of the Appellant's case, extensive revision involving meetings with Counsel

Partner Engaged - 37.5 hours	12.56	1422.67	5,625.00
Letters sent - 143		1573.00	2,145.00
Assistant Engaged - 18.5 hours	5.04	456.00	1,050.00
	So	3451.67	8,820.00
(b) Care and attention at 75%		1725.84	6,615.00

5177.51  
~~9964.50~~  
15,435.00

10257.49

0257.49  
5470.50

10-Feb-2000

Item 14.1

(a) Preparation for Hearing before the Appellate Committee

Partner Engaged - 2 hours		300.00
Letters sent - 24		360.00
	So	660.00
(b) Care and attention at 75%		495.00

726.00  
1,155.00

470.00

+29.00

Paid P.H. Brodie QC - Fee for Statement of Facts and Issues \* 1000.00  
1,500.00

Paid P.H. Brodie QC - Fee for List of Authorities \* 100.00  
350.00

Paid Peter Milligan, Advocate, for Statement of Facts and Issues 750.00  
1,500.00

17-Feb-2000

Hearing/Judgment

Item 13.1

(a) Attending Counsel in respect of Brief, List of Authorities and Refreshers, attending Respondent advising of Judgment, perusing draft Judgment

Partner Engaged - 12 hours		1,800.00
<del>Qualified Assistant - 3 hours</del>		<del>375.00</del>
Letters sent - 10		150.00
	35	2,325.00
(b) Care and attention at 75%		1,743.75

1930.50  
4,068.75

2173.25

138.25

Travelling

Item 13.2

Partner Engaged - 8.5 hours		1,275.00
<del>Qualified Assistant Engaged - 8.5 hours</del>		<del>1,062.50</del>

935.00  
2,337.50

140.00

02.50

Paid P.H. Brodie QC - Preparation Fee (15 days @ £1,500.00) \* 2000.00  
22,500.00

CARRIED FORWARD

28,550.00 25,800.49

BROUGHT FORWARD

		28,550.00	25,800.49	
Paid P.H. Brodie QC - Brief Fee		<del>18,000.00</del>		
		15,000.00		
Paid P.H. Brodie QC - Refresher Fee		<del>2,500.00</del>		
		5,000.00		
Paid Peter Milligan, Advocate - Preparation (44 days @ £1,000.00)		<del>8,000.00</del>		
		3,000.00		
Paid Peter Milligan, Advocate - Brief Fee		<del>11,000.00</del>		
		666.00	800.00	
Paid Peter Milligan, Advocate - Refresher Fee		<del>10,000.00</del>		
		7,500.00	1,000.00	
Paid Solicitors Travel and Accommodation Expenses		<del>3,500.00</del>		
		494.24		
		988.48		
2-Mar-2000 Paid Mr Milligan, Advocate - Fee for research on expenses and advising and drafting Grounds for House of Lords		988.48		
		<del>750.00</del>		
15-Jul-2000 Taxation of Costs - Item 15.1 (a) Preparation of Bill of Costs and all subsequent work in relation to the Taxation				
Partner Engaged - 2 hours 4.30	495	300.00	668.25	
(b) Care and attention at 35%	173.25	105.00	297.00	+ 268.25
Attendance travelling - 7 hours			405.00	
Paid travelling expenses for Taxation (estimated)			770.00	232
			1,050.00	
		310.20		
		300.00		
Add Outlays	3 2598.68	108,088.48	27,255.49	10 768.82
			108,088.48	39 598.68
			135,343.97	50 367.50
				= £84 976.7
				baseline
				+ 5% - review fee
				7 2518 375
				TJAT

2 11538.02

CLAIM	AMOUNT	DATE	AMOUNT
2500	1500	12/00	700
1500	4000	11/00	800
22500	10000	4/00	300
500	3000	12/00	100
500	200	20/00	100
500	5000	20/00	100
500	5000	20/00	100

100610

**ON APPEAL FROM  
THE FIRST DIVISION OF THE COURT OF SESSION IN SCOTLAND**

**BETWEEN:**

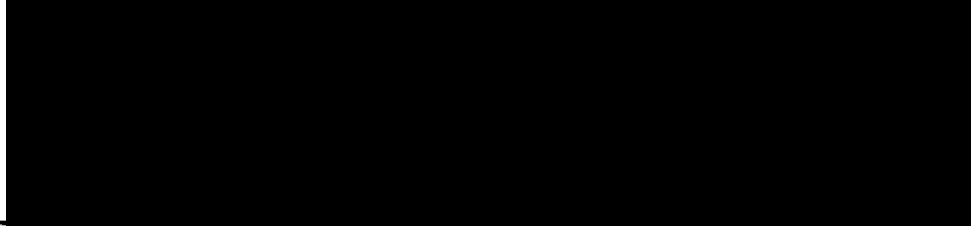


**Appellant**

and

**THE CHIEF CONSTABLE, STRATHCLYDE POLICE**

**Respondent**



2 A4 Taxation Costs Forms Over Stationery

Taxed Off	Value Added Tax	Disbursements	Profit Costs
<p><b>RESPONDENT'S LONDON AGENTS' ACCOUNT</b></p>			
<p><b>PETITION OF APPEAL</b></p>			
<p><b>Documentation:-</b></p>			
<p>The following rate has been applied throughout:</p>			
<p style="text-align: center;">135.00</p> <p>Qualified Assistant: £140 per hour.</p>			
<p>July 1999 to February 2000</p>			
<p>17.1 Liasing with the Judicial Office of the House of Lords, and Edinburgh Agents for the Respondent, in connection with (i) the directions given at the preliminary hearing of the House of Lords on 13 July 1999, and (ii) their Lordship's related requirements regarding lodgment of the Case and Statement of Facts and Issues prior to the final hearing in February 2000; attending receipt of the Respondent's Statement of Case from the Respondent's Edinburgh Agents; arranging the lodging of the same at the Judicial Office.</p>			
<p>Qualified Assistant engaged: 3.8 hours @ £140 per hour:      <u>£532</u></p>			<p style="text-align: right;">513 00 <del>£532 00</del></p>

Value  
Added  
Tax

Disburse-  
ments

Profit  
Costs

**Preliminary and Final Hearings and Judgment:-**

The following rate has been applied throughout:

Qualified Assistant: ~~£140~~ <sup>135.00</sup> per hour.

July 1999 to March 2000

18.3 (a)

Attending the House of Lords for (i) the preliminary hearing on 13 July 1999. (ii) the beginning (in order to deal with any matters which might have required attention) of the final hearing on 14 February 2000 and (iii) the handing down of the Judgment on 9 March 2000; preparing for the said hearings; arranging (where necessary) for passes to be made available for Counsel and Agents to attend the three hearings; drafting a detailed note of the directions set out by their Lordships at the preliminary hearing; providing a copy of that detailed note to the Respondent's Edinburgh Agents; liaising with the Judicial Office in connection with the dates fixed for the hearings, ensuring all the Judicial Office's requirements had been seen to in connection with the hearings; preparing the Brief to Counsel to attend the handing down of the Judgment; making appropriate arrangements to obtain the Judgment from the Judicial Office; liaising with Counsel in relation to arrangements for the handing down of the Judgment; forwarding a copy of the Judgment to the Respondent's Edinburgh and Glasgow Agents.

Qualified Assistant engaged:  
8.8 hours @ £140 per hour: £1,232

18.4 Travelling to and from the House of Lords on three occasions for (i) the preliminary hearing on 13 July 1999; (ii) the beginning of final hearing on 14 February 2000; and (iii) the handing down of the Judgment on 9 March 2000:

Qualified Assistant engaged:  
2.4 hours @ £140 per hour: £336

18.5 Counsel's judgment fee: £75  
£1,643

£75 00

1512  
~~£1,568~~



Value Added Tax	Disbursements	Profit Costs
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**Instructions:-**

The following rates have been applied throughout:

Qualified assistant: £120 per hour from Nov 1999 to Apr 2000.

Qualified assistant: ~~£140~~<sup>135</sup> per hour from Apr 2000 to July 2000.

November 1999 to July 2000

19.1 Liaising with the Judicial Office of the House of Lords, and reporting back to the Edinburgh Agents for the Respondent regarding the following: the date from which the House of Lords' directions run for the purpose of lodging documents at the Judicial Office, how to overcome the difficulty of preparing for the final hearing before obtaining more details about the basis of the appeal, preparation of the Statement of Facts and Issues and the Respondent's written Case, the requirement to review the facts of the claim during the final hearing, how the Judicial Committee was likely to approach the appeal (which concerned a consideration of a significant amount of expert and factual evidence), management of the case, the time estimate for the final hearing, the most likely dates on which the final hearing would be listed and the possibility of both parties meeting with a representative of the Judicial Office to agree case management issues generally.

Qualified Assistant engaged:

4.8 hours @ £120 per hour:	£576
1.4 hours @ £140 per hour:	£196
	<u>£772</u>

765	00
<del>£772</del>	<del>00</del>

**Taxation of Costs:-**

The following rates have been applied throughout:

Qualified assistant: £140 per hour.

Trainee solicitor: £90 per hour.

From July 2000

20.1 Preparing party and party bill of costs; preparing for and attending taxation:

Qualified Assistant engaged:

3.5 hours @ <del>£140</del> <sup>135</sup> per hour:	£490
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Trainee Solicitor engaged:

2.0 hours @ £90 per hour:	£180
$\frac{1}{2}$	<u>£670</u>

180	00
<del>£670</del>	<del>00</del>
£1,442	00

Value  
Added  
Tax

Disburse-  
ments

Profit  
Costs

**SUMMARY**

PAGE 1:

£ 532 00

PAGE 2:

£ 75 00 £1,568 00

PAGE 3:

£1,442 00

Sub total:

£ 75 00 £3,542 00

LESS taxed off:

2532 ?

Sub total:

ADD taxing fee:

TOTAL: