

**Milligan,
& Telford
& Morrow**
DEFENCE LAWYERS

[REDACTED]
Scottish Legal Aid Board
DX ED55251
EDINBURGH 30

SM



20 September 2002

MTM/AM/19866

Dear Sirs

[REDACTED]
Ref No AA/07/1264997901



We refer to the above matter and the diet of taxation on the 19 September 2002.

At that time the Auditor reinstated the abatements made by the Legal Aid Board. The full £36.40 now falls due and we should be pleased to receive payment of this at your earliest convenience.

Yours faithfully

MTM

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Falkirk FK1 1DJ

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MT Morrow, LL.B., Dip.L.P., N.P. Mobile: 07989 420374

TAXATION

FALKIRK SHERIFF COURT 19 SEPTEMBER 2002

COPY

I return your papers herewith. I attended at what was a very short taxation, where the Auditor was satisfied that in the particular circumstances of this particular case, the precognition was justified. However he did comment that this would not be so in every case. There was no great point of principle discussed, and no suggestion that the outcome of this taxation was in any way binding upon any other case or our approach in general. I think care does need to be taken that we are not seen to take too mechanistic an approach to charging for precognitions, and I do not consider that a series of taxations on the subject will either achieve any great point of principle or be economically justified.

When I was preparing for the taxation, I did find the approach taken to the offer on this account somewhat strange. Having abated the precognition, we effectively reinstated it by being prepared to offer the minimum fee. This was a case where the solicitor did not claim the minimum fee, and having been satisfied that the properly incurred fees and outlays were considerably lower than £25, I have some difficulty understanding the basis for making an offer at that level. However, I understand this is a standard approach, which could be usefully looked at through the change control mechanism. Given that we are being prepared to offer £25, we were essentially going to taxation over £6. My return rail fare to Camelon was £5.50!

The question of precognitions is perhaps something which could be considered further, although there may be a difficulty as to how comprehensive any guidance could be. It is interesting that the guidance published by the Central Committee appears to have been stronger in its terms than the Board's guidance, which suggests that the approach to precognitions became watered down over the years.

PS/cs

30 September 2002

SOLICITOR REFERRAL – DIET OF TAXATION

Assisted Persons Name : [REDACTED]
L.Aid.Reference : AA/07/1264997901
Solicitors Name & Firm : Mr Morrow - Milligan, Telford & Morrow
Date of Taxation & Location: Thursday 19th September 2002 at 12 Noon,
Falkirk Sheriff Court

Type of case : Advice & Assistance – Misuse of Drugs Act 1971 S5(3)

Case Background & Nature of Dispute:

The client was admitted to A&A in relation to a misuse of drugs matter. The solicitor took the client's 'precognition' at the initial meeting. No complaint was ever received and nothing further happened. The charge for taking the precognition was abated as it was considered that there was no need to have framed a precognition at that stage and that a simple file note would have sufficed. The precognition itself is very basic and simply contains details of the clients background and a brief description of the incident in relation to which she was seeking advice.

In response, the solicitors argued that the precognition was not taken prematurely as given the quantity of drugs involved, it was quite *possible* that the matter *might* have proceeded on petition. They also argued that it was necessary that they have a note of their clients version of events whilst still fresh in their minds (a point with which we don't disagree but suggest can equally be served by framing a file note). The solicitors feel that a file note would have been inadequate but have not explained why.

Previous Taxation Decisions or Similar Cases Which May Be Relevant:

- There have been no previous taxation's in similar cases. However, the account of [REDACTED] was taxed at Edinburgh Sheriff Court on 21/6/84 wherein the auditor disallowed a claim for framing the clients precognition who was pleading guilty.

Referred by : [REDACTED]

Date : 4/9/02

225 3705

Direct Line: 0131 240 2083

683

Messrs Milligan Telford & Morrow
Defence Lawyers
DX FA20
FALKIRK
By Fax: 01324 611694

MTM/JK/19866

PS/SMcS

13 September 2002

Dear Sirs

██████████ – AA/07/1264997901

DIET OF TAXATION: THURSDAY 19 SEPTEMBER 2002 at 12pm

I refer to your letter of 2 September 2002 intimating Diet of Taxation on 19 September.

The Board set out its position in relation to precognitions in its Taxation Guidelines in 1994, which I trust you have in your office. It was stated that precognitions would only be allowed where the matter is likely to proceed to litigation or where litigation is likely if negotiations do not succeed. You may also wish to note that the Law Society's own legal aid administration was deeply concerned about solicitors charging for unnecessary precognitions and made it clear in the Journal in 1977 that only in a minority of cases would precognitions be necessary and then only where the case seemed likely to progress to proceedings in court. It should also be recalled that the taxation standard for advice and assistance is a very strict one. The work must have been actually, necessarily and reasonably done, due regard being had to economy. You may well have actually taken the precognition, although I would query whether the content of this statement really amounts to something which would be used in evidence. However, our view is that the work is most certainly not necessary nor reasonable nor has due regard been had to economy in charging for that element. We do not consider that the prudent man of business in the knowledge that his account would be taxed would charge for such unnecessary items.

I am curious as to the additional entry in the account which claims that other matters were discussed. I would be obliged if you would confirm the total length of the meeting supported by the relevant file note. Finally, I am not at all clear as to the purpose of the two following entries in the account, since your client was presumably advised at the meeting to make contact in the event that the Crown initiated proceedings.

I look forward to hearing from you as soon as possible.

Yours faithfully

██████████

TAXATION OF LEGAL ADVICE AND ASSISTANCE ACCOUNT

MESSRS. ALEX MORISON & CO. - THE LAW SOCIETY OF SCOTLAND -

[REDACTED] was granted Legal Advice and Assistance on 26th January 1984 by Mr. J. R. E. Osborne of Alex Morison & Co.; W.S., Edinburgh. The subject matter was Advice on a Criminal Pleading Diet on 3rd February 1984 to which [REDACTED] had been cited by the Procurator Fiscal, Edinburgh charged with a Contravention of Section 6 (1)(a) of the Road Traffic Act 1972 as amended. The Account submitted in terms of the Legal Advice and Assistance Scheme by Mr. Osborne was not agreed between the Legal Aid Central Committee and Mr. Osborne and was remitted to me for taxation. I appointed 20th June 1984 as the Diet of Taxation. On that date the Legal Aid Central Committee were represented by Mr. Keith J. Marshall and a member of his Staff. There was no appearance on behalf of Messrs. Alex Morison & Co. I accordingly taxed the Account without the benefit of submissions on their behalf.

The Account comprised an attendance between solicitor and client taking instructions with regard to the Complaint, fully discussing and advising and taking statement (½ hour), framing the statement (1 sheet) and copy, perusing the Complaint (charged as a separate item), attendance of solicitor with client on the day of the Pleading Diet noting dates, circumstances and discussing charged as a 5 minute meeting. Mr. Marshall on behalf of the Central Committee objected to the charge for framing and copying the statement and the charge for perusing the Complaint after the first attendance between solicitor and client at which the instructions had been given. I taxed off the charges of £4.00 and 80p framing and copying the statement by Mrs. Welsh and £4.00 for perusing the Complaint.

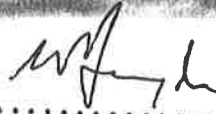
In the circumstances of this particular case it seemed to me that very early in the first meeting between solicitor and client the Complaint would have to be considered by the solicitor. It related to a single Charge under the Road Traffic Act and in my opinion did not justify further perusal after a half hour meeting with the client. This being a Legal Advice and Assistance matter [REDACTED] could not be represented by a solicitor in terms of her LAA Certificate at the Pleading Diet. She in fact had a further meeting with her solicitor on the morning of the Pleading Diet for which a charge of £6.00 was made /

made in the Account and to which no exception was taken by Mr. Marshall. In all these circumstances I concluded that the taking of the statement was unnecessary and accordingly disallowed it.

In the absence of any submission on behalf of the solicitor concerned and having regard to the view I formed of the circumstances in this particular case the abatements I made in the course of this taxation were directly relevant to this case and are not accordingly to be taken as expressions of general principle.

This note is written at the request of Mr. Marshall.

21st June 1984



.....
W. Bryden
Joint Auditor, Edinburgh Sheriff Court

Advice and Assistance Accounts Division

44 Drumsheugh Gardens
Edinburgh EH3 7SW

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Legal Post LP2 EDINBURGH 7
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Milligan, Telford & Morrow
Solicitors
DX FA20 FALKIRK

Please ask for extension number: 431
MTM/LT/19866

Your ref:

Please quote the department above and
our reference:

JK/JK

19 July 02

Dear Sirs

[REDACTED] - AA/07/1264997901

I refer to your letter dated 9 May 02 and apologise for the delay in replying.

I appreciate that the client's details must be taken at an early stage however this is usually done in the format of a file note rather than incurring the costs of a precognition as the complaint had not been issued and therefore the charge not known.

If however you still wish to go to taxation please advise of the date once this has been arranged.

I look forward to hearing from you in due course.

Yours faithfully

[REDACTED]
Accounts Division



ACCOUNT OF EXPENSES

Incurred by

THE SCOTTISH LEGAL AID BOARD

To

Milligan Telford & Morrow

In causa



REF: AA.07.1264997901

DATE	DESCRIPTION	OUTLAYS	FEES
6.11.01 <i>- 21 CS</i>	Att taking statement from client - <i>Precedent does not apply</i>		21.05
	Att with client taking instructions min (Q) outwith statement - <i>Precedent does not apply</i>	<i>completed</i>	10.55
26.11.01	Wtg client re our previous meeting advising on steps to follow	<i>has got</i>	
27.11.01	Telephone call with client re she has not heard anything	<i>sorted</i>	2.40
	Total		2.40
			£ 36.40

offer £25 min. fee

*Recognition, which was issued at Falkirk
on the 19 September 2002.*

PRECOGNITION OF



FILE REF: MTM/LD/19866

FILE NAME: PRMCNEISH4

TAKEN ON: 6/11/01

I am [REDACTED] My date of birth is the 12
January 1980, my national insurance number is [REDACTED] and my
mother's maiden name is [REDACTED] I am currently at college awaiting a
grant and I am living off charity at the present time. Me and a man
called [REDACTED] and two boys from Plean were in a car which
belonged to [REDACTED] girlfriend. I had gone into a house in
Camelon, come out of the house in Camelon and we were stopped by the
police as we drove off. They were flashing us and the police pulled us
over. I cannot remember if I had been drinking or not that day but they
found 50 or 60 valium in my pocket. They found a tub of 1000 valium
somewhere else inside the car. They took me for questioning and I said
I could not tell where they got the tub from. The valium tablets I had/

had the same name Wiltshires on them as in the tub, [REDACTED] was done with intent to supply but the truth of the matter is half were [REDACTED] and half were one of the boys from Plean.

They have a value of 50p each tablet. I am told that the boys from Plean were not charged with anything so I presume they have given evidence against me.

Word Count: 255

Advise and Assistance Accounts Division

44 Drumsheugh Gardens
Edinburgh EH3 7SW

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Milligan Telford & Morrow
Solicitors
DX FA20 FALKIRK

Please ask for extension number: 431

Your ref: MTM/LT/19866

Please quote the department above and
our reference: JK/JK

12 July 2002

Dear Sirs

[REDACTED] AA/07/12649979001

I refer to your letter dated 9 May 02 and apologise for the delay in replying.

This matter is presently receiving attention and I hope to revert to you shortly.

Yours faithfully

[REDACTED]
Accounts Division

