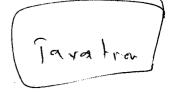
AUDITOR OF THE COURT OF SESSION

PARLIAMENT HOUSE, EDINBURGH EH1 1RQ DOCUMENT EXCHANGE 549304 EDINBURGH 36



0131 240 6789 Fax: 0131 220 0137

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Your Ref. CI/C205490213

Date 28 May 2018 Ref. 68847

SCOTTISH LEGAL AID BOARD DX 555250 EDINBURGH 30

CS



(LA) V GREATER GLASGOW AND CLYDE HEALTH BOARD

Fee Fund Dues

£221.00

Payable within 14 days of the date of this account. Payment can be made by BACS Sort Code 80 12 80 Account No. 06008856 or cheque made payable to The Auditor of the Court of Session.

The Auditor Kenneth M Cumming W.S Principal Clerk Mrs Sheila Muir

Client:

SUNN0001/00002

Firm's Code:

43079

Account Point ID:

Practitioner Code: 396047

AA Ref.:

LAA Ref No

Commencement: 11/11/2016

Auth. Expend:

0.00

VAT No:

Advice and Assistance Account

incurred by

Scottish Legal Aid Board

Thompson & Brown Ltd

Suite 200/200A Central Chambers 93 Hope Street Glasgow

G2 6LD

acting on behalf of



subject matter:

Sh5 account.

THIS IS NOT A TAX INVOICE

Summary Date **Outlays** Charges

11/11/2016

Telephone Attendance with Client advising that legal aid has been transferred. We will now require to dig into a vast amount of files to fully understand what the case was about in detail. Client notes the position and advising that we will revert in due course.

Time Engaged: 20 Minutes Start: 19:00, End: 19:20 Engaged: 0 hours 20 mins

(Attended by Michael Thompson (Qualified))

232. UZ 12/11/2016

Qual. Time/Meeting Perusal Note of Box 1 of 5 boxes of files received from previous solicitor. Noting that the boxes are in a, considerable state of disaray and a great deal of time was spent trying to organise what papers were contained within the boxes before making any sense of the chronology. Noting that having managed to get half way through the box to organise it we have located several precognition statements of the client, the first, second and third inventory of productions for the Defender, the closed Record, the NICE clinical excellence guidelines on the requirement for rectal examination post delivery for damage and various medical reports which we are not sure have been lodged but are on the face of it supportive. Noting that the reports include two psychiatric reports from a

One being very good and

one being okay. The Kinniburgh report is a 2014 report and the MacLennan reprot is a 2011 report. There is a medical report from Peter Brunscall which is supportive dated 4th March 2011 and a medical report from a

29.06

232.48



	14th August 2011. There is also a report from a which is not supportive but it is conceded within the report that he has not seen all of the available information. There is a supplementary report from a which is a supplementary report attacking a report from is on the witness list for the defender and we have also uncovered the reports that the Defender relies upon including the report, professor report and a supplementory condition and prognosis report by Professor. Noting that we have recovered inventory of productions coversheets for the Pursuer and it is clear that there is substantial maternity records from the Royal Alexandria Hospital Paisley, missing report from there is also two versions of CV and it is not clear which one has been lodged and on the face of it there is a missing sixth inventory of productions which may be in the other half of box one or the remaining boxes 2-5	
	300 pages Time Engaged: 4 Hours Start: 09:20, End: 13:20 Engaged: 4 hours 0 mins (Attended by Michael Thompson (Qualified))	
14/11/2016	long letter wc748 re box 1 and realsim of issue and complexiities.	49.74
14/11/2016	Perusal of Legal Aid Certificate which was made available on 14th November and checking extent of the cover. (1 Sheet) (1 Sheet)	8.29
1 し:5 む 15/11/201F	Long Letter to WC501. Expert looking to arrange urgent consultation and seeking fee quote for same. (5 Pages) WC=501	₁ 41.45
8.29 _{15/11/2016}	Long Letter to WC405 requesting urgent response re consultation. (4 Pages) WC=405	3.16
58.12_15/11/2016 0 0	Perusing Inventory of Process (74 Pages) Start: 21:00, End: 22:00 Engaged: 1 hour 0 mins (Attended by Michael Thompson (Qualified))	58.12
232.48 16/11/2016	Qual. Time/Meeting - Perusal of Client's first 3 inventories of productionsq Perusing the inventory of process folder.	232.48
	Noting that it contains the following: 1.Summons (lodged 9th December 2011) 2.Certified copy Summons 3.Interlocutor Noting that folder 2 does not contain certified	

TRUCC TRUCC copy summons. There is only one copy of the summons at folder 1. Noting that folder 2 contains the interlocutor sheet 4.Noting that folder 4 is supposed to contain the motions but these are included in folder 3. Noting that folder 4 contains a specification of documents marked number 10.

5.List of witnesses for the Pursuer. Noting that number 5 is intended to contain the minute of proceedings which is instead included at folder 6

6.Minute of proceedings

7.Noting that folder 7 contains the Pursuer's Legal Aid certificate, as well as a timeline of events pertaining to the case.

8. Noting that the folder is empty from folders 8-20

Noting that the inventory of process cover sheet states that the folder is supposed to contain the following

1.Summons

2.Certified copy summons

3.Interlocutor sheet

4.Motion sheet

5. Minute of proceedings

6.6/1-4, 01/06/11, 6/5-6, 10/06/11. Noting that number 6 looks as though it is intended to contain the Pursuer's productions which have been included in subsequent folders due to their volume.

7.Defenders productions

8.Defences dated 26th April 2011

9. Open record dated 9th May 2011

10.Intelligible

Noting the first inventory of productions is supposed to contain: 1.6/1 maternity records relating to the Pursuer from the Royal Alexandria Hospital, Paisley

2.6/2 medical records relating to the Pursuer from the Royal Alexandria Hospital, Paisley

3.6/3 medical records relating to the Pursuer from Glasgow Royal Infirmary

4.6/4 undated medical records to December 2010 relating to the Pursuer from the Royal Alexandria Hospital, Paisley

Noting the second inventory of productions is supposed to contain:

1.6/5 ano-rectal physiology reports relating to the Pursuer from Gartnavel General Hospital

2.6/6 operation notes dated 2nd April 2008 by

Noting the third inventory of productions is supposed to contain: 1.6/7 report by consultant obstretrician and gynaecologist 2.6/8 CV of

Noting of the first brief file the only thing which we have is the report prepared by It is unclear where the medical records are in relation to these inventories.

Noting the fourth inventory of productions for the Pursue commences with:

1.6/9 GP records

2.6/10 GP records updated from March 2011 to September 2013

3.6/11 GP records updated from September 2013 to September 2014.

Noting that productions 6/10 and 6/11 are included in the



separate lever arch folder entitled productions 6/10-6/17.

Noting that the Pursuer's fifth inventory of productions are included in the same folder. Noting that the fifth inventory of productions includes

1.6/12 medical report by consultant obstetrician and gynaecologist

2.6/13 report by consultant psychiatrist

Pursuer's sixth inventory of productions contains

1.6/14 CV by 2.6/15 CV by

3.6/16 articles/publications referred to by

report 6/7

4.6/17 report by consultant psychiatrist Noting that all the productions in this folder appear to be included.

Noting the fourth folder is entitled productions 6/18-19

Noting the Pursuer's seventh inventory of productions contains:

, consultant obstetrician 1.6/18 reports by

and gynaecologist dated 6th June 2015

2.6/19 copy report by Ms consultant

surgeon dated January 2016

Noting that both of these reports appear to be included in the productions.

Start: 17:00, End: 21:00 Engaged(4 hours 0 mins

(Attended by Michael Thompson (Qualified))

48.59 16/11/2016 Perusing Closed Record (14Pages)

Start: 08:00, End: 08:40

Engaged: 0 hours 40 mins

(Attended by Michael Thompson.(Qualified))

Au36 17/11/2016 Perusing Defender's First Inventory of Productions Part 1 (115

Pages)

Start: 17:00 End: 20:00 Engaged: 3 hours 0 mins

(Attended by Michael Thompson (Qualified))

55.12 17/11/2016 Perusing the Defender's First Inventory of Productions Part 2

> (74 Pages) Start: 20:00, End: 21:00

Engaged 1 hour 0 mins

(Attended by Michael Thompson (Qualified))

116.24 18/11/2016 Perusal of Defenders 2nd Inventory of Productions

Perusing CV's of Doctor and Professor (134 pages)

Start: 18:00; End: 20:00

Engaged 2 hours 0 mins

(Attended by Michael Thompson (Qualified))



Professor

43.59

174.36

58.12

116.24

29.66 18/11/2016	Perusing Third Inventory of Productions for Defender 7/8 of Process -Prognosis report by dated 18 January 2012. Start: 20:00, End: 20:30 Engaged: 0 hours 30 mins (Attended by Michael Thompson (Qualified))	29.06
116.24 18/11/2016	Perusal of Pursuers medical Records-Various hospitals -30 page segments- part 1 being from the Womans and Childrens director at Royal Alexandra Hospital (31 pages) part 2 being from NHS North Glasgow operation records. Number 3 being Thyroid Clinic, Number 4- Glasgow Royal Infirmary, Number 5- Glasgow Royal Infirmary Haemotology Department, NUmber 6 being - Continuation from Haemotology Department Total number of pages - 180 pages Start: 20:30, End: 22:30 Engaged 2 hours 0 mins (Attended by Michael Thompson (Qualified))	
116-24 19/11/2016	Persuing Pursuers 2nd bundle of medical records. (122 pages) From Royal Alexandra Hospital, Paisley covering birth and post birth trauma. Start: 18:00, End: 20:00 Engaged: 2 hours 0 mins (Attended by Michael Thompson (Qualified))	116.24
232:48 19/11/2016	Perusing boxes 2-4 (now placed 5 boxes into 4) - box 2 is 100 pages of old medical records which are copies and some reference to 1995 health issues - we have them in other records - 100 pages - BOx 3 of the in effect the Ed agent files and copy records(1000 pages) but cant see anything that has not been placed in other files - box 4 is a coplete set of copy records from fmr agent - 1000 pages but already located elsewhere. 2300 pages Start: 10:00, End: 14:00 Engaged(4 hours 0 mins (Attended by Michael Thompson (Qualified))	232.48
233.84 20/11/2016	Marshalling papers for counsel's opinion (1200 paghes of documents selective spread out over 8 folders Start: 10:06, End: 16:00 Engaged 6 hours 0 mins (Attended by Michael Thompson (Qualified))	348.72
28/11/2016	Telephone attendance Counsel who has been instructed noting that he has been given approx 2000 pages of documents to review and he has now declared himself to be medically unfit, he is going to be in hospital for several days and that is going to delay the Opinion to SLAB. Thanking Counsel for the information discussing timescales in the report generrally. Start: 16:00, End: 16:20 Engaged: 0 hours 20 mins (Attended by Michael Thompson (Qualified))	29.06



	28/11/2016	Detailled letter to SLAB 859WC advising that Counsel is unfit with medical conditions and advising the difficulties that is going to create in respect of timescales. (7 pages) WC=859	58.03
72.65	21/12/2016	Perusal of previous notes in consultation from Counsel in previous agent boxes noting evidential and causation difficulties 56 pages. Start: 17:09, End: 18:15 Engaged: 1 hour 15 mins (Attended by Michael Thompson (Qualified))	72.65
43.59	21/12/2016	Perusal of the finalised revised report noting that there has been various versions of this report and this is much more detailed but it does open out the issue of causation as being problematic. (38 pages) Start: 18:15, End: 19:00 Engaged: 0 hours 45 mins (Attended by Michael Thompson (Qualified))	43.59 ₍
29.00	21/12/2016	Qualified attendance perusing Doctor report on Psychiatric injury (16 pages) Start: 19:00, End: 19:20 Engaged: 0 hours 20 mins (Attended by Michael Thompson (Qualified))	29.06.
29.06	21/12/2016	Perusal of revised report (17 pages) Start: 19:20, End: 19:40 Engaged: 0 hours (20)mins (Attended by Michael Thompson (Qualified))	29.06
43.59	21/12/2016	Perusal of revised report Obsetrics and Gynacologist (30 pages) Start: 19:40, End: 20:15 Engaged: 0 hours 35 mins (Attended by Michael Thompson (Qualified))	43.59
116.24	21/12/2016	Perusal of updated GP Records cocnerning ongoing causation issues of incontenence and mitigation of loss. Noting the client is still being treated for ****** Incontence and has reiceved electrose which are supposed to stimulate the ***** which dont work. (175 pages) Start: 21:00, End: 23:00 Engaged: 2 hours 0 mins (Attended by Michael Thompson (Qualified))	116.24
30 65	22/12/2016	Perusal of Counsels Opinion (20 pages) Start: 12:00, End: 12:40 Engaged: 0 hours 40 mins (Attended by Michael Thompson (Qualified)	43.59



62.76	Carried Forwa	ard:	0.00	2578.72
·	. 16/01/2017 17701/201 <u>7</u>	Perusing Opinion of Senior Counsel (8 pages) (4 Sheets) Perusal of motion for Cation by the Defenders in the sum of £10,000 (4 Sheets)		33.16 33.16
	12/01/2017	Detailed letter to client giving full update in relation to prospects of success and the risks associated with the case including that you can nominate risks where SLAB will consider it reasonable or not to conitnue with the case. 741WC (6 Pages) WC=741		49.74
	10/01/2017	Telephone attendance with discussing case. Explaing that there has been a delay because originally we beleived that SLAB were going to make a determination of the opinion of Junior Counsel but now SLAB have decided they want an opinion of Senior Counsel following upon Junior Counsels advice. Advising that this opinion was in fact instructed over the Christmas Holidays but lain Mitchell has not been available to cmplete it and it is his promise that he will have the opinion available by about 16 or 17th January 2017. Noting Defenders have held off lodging a motion for Cation but they are not going to delay any further becuase of the proximity of the Proof Diet. Advising that we will do our best to move matters forward but we have been open to CLO about the difficulty with legal aid on the outset of our involvement. Discussing settlement and Clawback generally with and making it clear that they understand that if they offer £45,000 and they were £40,000 fees outstanding to various other agents then the client would only see £5000 becuase of clawback so agreeing that we would try and figure out what money had been spent at SLAB on this case to see whether settlement was in any way economic. Start: 11:00, End: 11:30 Engaged: 0 hours 30 mins (Attended by Michael Thompson (Qualified))		29.06
	29/12/2016	Detailed letter to Senior Counsel instructing opinion per slab . 250WC (2 Pages)		16.5
	28/12/2016	Telephone attendance with lain Mitchell QC explaining background history of the case noting that Junior Counsel have prepared an extensive opinion on a number of issues but ultimately wanted to defer the issue of whether legal aid should conotnue in this case to Senior. Noting SLAB have asked for the opinion Senior Counsel in the circumstances and granted sanction and asking would he take the case on noting he would but he is on holiday and he will try and look at it when he is abroad if everything can be emailled to him failing which he will deal wioth it on his return. Start: 11:00, End: 11:30 Engaged: 0 hours 30 mins (Attended by Michael Thompson (Qualified))		29.0
		Talanhara attandan a with him Mil I II OO		•



17/01/2017	Telephone attendance with expert in case noting that Senior Counsel has a number of other issues arising from his opinion which needs to be clarified by the expert Noting that is prepared to assist but as it happens he is meeting the other expert in relation to another case and would like to have a discussion with her about the caase. Noting that is absolutely rock solid on the question of liability but he would have to refer to a surgeon for causational issues. Agreeing that he would speak to and revert. Start: 09:00, End: 09:20 Engaged: 0 hours 20 mins (Attended by Michael Thompson (Qualified))	29.06
17/01/2017	Telephone attednace with and she was prepared to have another counsultation about the case and noting that there are definetely issues of coasation beyond the one year period after the operation. Agreeing that the best thing to do is to try and have a weekend consultation where we can get senior counsel and the experts available to thrash this case outwith once and for all. Start: 18:00, End: 18:10 Engaged: 0 hours 10 mins (Attended by Michael Thompson (Qualified))	8.29
17/01/2017	Telephone discussion with noting she is prepared to assist getting fees in order that Sanction can be obtained etc. Noting that she is available to do a telephone consultation over the weekend given the urgency of the matter. Start: 18:15, End: 18:30 Engaged: 0 hours 15 mins (Attended by Michael Thompson (Qualified))	14.53
18/01/2017	Letter to Edinburgh agents given chronology of case and our involvement and noting where we are at in relation to the legal aid board. 300WC (3 Pages)	24.87
18/01/2017	Detailed letter to SLAB setting out the position re sanction for the weekend consulation 497WC (4 Pages)	33.16
19/01/2017	Detailed letter to SLAB making representations in support of the grant of legal aid. 697WC (6 pages) WC=697	49.74
19/01/2017	Telephone attendance with Edinburgh agent concerning Start: 09:45, End: 10:00 Engaged: 0 hours 15 mins (Attended by Michael Thompson (Qualified))	14.53



19/01/2017	Telephone attendance with lan mitchell QC agreeing he will do a supplementary note focussing on the economics of the case, he wants to know about contra awards and wage loss post meeting with experts Start: 10:00, End: 10:19 Engaged: 0 hours 19 mins (Attended by Michael Thompson (Qualified))		29.06
19/01/2017	Telephone attendance with from SLAB discussing case next steps looking for supplementary Sanction grant and noting it was granted voer the telephone. Start: 10:19, End: 10:38 Engaged: 0 hours 19 mins (Attended by Michael Thompson (Qualified))	: :	29.06
19/01/2017	Telephone attendance with Edinburgh agent discussing if he could find out what the contra awards are as there is sme confusion as to what the precise contra awards are in this case it might only be actually be one award of about £2000 and nothing else. Start: 13:05, End: 13:13 Engaged: 0 hours 8 mins (Attended by Michael Thompson (Qualified))		8.29
19/01/2017	Perusal of Interlocutors (6 pages) confirming that the only awards of expenses against the client are about £2100 and the other expenses modification for same was refused in hoc status where there is only one award. (3 Sheets)		24.87
19/01/2017	Detailed letter to Senior Counsel instructing second note following upon the consultation to come. 812WC (7 pages) WC=812	· -	58.03
20/01/2017	10:00 to 11:36 Waiting Time/Meeting at Court Engaged: 1 hour 36 mins (Attended by Michael Thompson (Qualified))		87.18
20/01/2017	11:36 to 12:25 Court Time Engaged: 0 hours 49 mins (Attended by Michael Thompson (Qualified))		75.16°
20/01/2017	Mileage edinburgh and back	40.00	
	VAT thereon	8.00	
20/01/2017	Preparing for cort marshalling papers Start: 07:00, End: 07:20 Engaged: 0 hours 20 mins		29.06
Carried Forwa	ard:	~48.00	3093.61

...

20/01/2017	Travelling Start: 08:30, End: 10:00 Engaged: 1 hour 30 mins (Attended by Michael Thompson (Qualified))	43.62
20/01/2017	Qual. Time/Meeting with opposing agent re settlement discussions if cvla is terminated Start: 12:25, End: 12:40 Engaged: 0 hours 15 mins (Attended by Michael Thompson (Qualified))	14.53
20/01/2017	Travelling Start: 12:40, End: 14:10 Engaged: 1 hour 30 mins (Attended by Michael Thompson (Qualified))	43.62
22/01/2017	Qual. Time/Meeting - Consultation with Senior Counsel, Dr Spending first half of the consultation on liability and both been a breach of the duty of care here either in not performing the appropriate medical examination or missing the 3B tear. Noting specifically uses the word appaling to miss this. Senior Counsel then probes carrefully about whether or not there is separate bodies of practice and that some people would ignore the guidelines. answer was that the guidelines were in place in 2007 because there has been numerous issues of missing pairs and these were reported from 1998 on wards so would find it inconceivable that any medical expert would stand up and say that this was a reasonable practice. Senior Counsel then probed further about why said that it didn't really matter because he simply did not see these tears when they occured or at a primary basis. expertise means that he deals with these types of tears on a secondary level and it is simply outwith his expertise to comment upon what happens at the primary tear stage whilst the child was being born. States that "she works with him popes that this remark is not made public" assuring that it would not be. Senior Counsel then probed again as to why matter there is a body of people who would simply not examine properly or not catch the tear upon examination. Explains again that he is abody deline the tear explains again that he is abody deline that his view must be seen as based as historic based on his experience as an expert way back when these guidelines did not exist. Explains again that he is absolutely clear that there has been negligence here and also comments that who is the other obstetric expert who has a report	72.65



in this case and has been lodged as also confirmed that the liability was indeed a negligent liability. Agreeing that the most likely cross examination strategy against on liability would be to deal with the fact that he is simply out of touch with the current practice guidelines which have been in place for the last ten years or more. Agreeing that liability looked guite reasonable.

Next half of the consultation went on to deal with the question of causation and a long discussion took place about the client as a reasonable witness. It was clear that the client had mental health issues and had mentioned that the bowel is sometimes referred to as the small brain and that IBS is a diagnosis of those who are "destitute". By this, she meant that if you had mental health issues and severe anxiety etc this will almost always play havoc with your bowels becuase it is such a delicate and multi layered and multi factored process. Noting that it is very clear that anyone with mental health issues will have in all probability some issue with diarhoea or constapation. Going on to look at the medical records and has made a fundamental mistake in his report saying that there was a diagnosis on 19th September 1992 which is just plainly wrong. It is clear that profesor has read the summary sheet but not actually checked the notes. Another good reason to attack expert as opposed to . However, in going through the notes again, there is definitely some men Start: 11:30, End: 12:45 Engaged: 1 hour 15 mins (Attended by Michael Thompson (Qualified))

22/01/2017 Email to experts -pre consultation - with an agenda for the consultation 390WC (4 pages)
WC=390

33.16

87.18

22/01/2017 Preparation for consultation with Counsel and expert s concerning causation issues with and complication about IBS in relation to the causation going through medical records and cross reference various entries because there is a clear error identified in the report which said there was IBS in 1992 which plainly there wasnt.

Start: 10:00, End: 11:30 Engaged: 1 hour 30 mins

(Attended by Michael Thompson (Qualified))(1

25/64 23/01/2017 Perusal of Supplementary Opinion (8 pages) (4 Sheets)

33.16

23/01/2017 Detailed letter to SLAB intimating Counsels Opinion and commenting on same 80WC

3.26

5.03 23/01/2017 Detailed letter to Edinburgh agent advising that legal aid is going to be terminated and will only remain in place to settl

8.29

going to be terminated and will only remain in place to settle the cause advising that i will speak to CLO about settling the case . (1 Page)



23/01/2017	Telephone attendance with client discussing case noting that the economics of the case make the risk not worth while and if she was a oprivate fee paying client we would have to tell her not to spend the money because it would simply be a very substantial gamble because of the level of solation being so	58.12
·	open per the risk of running the proof and explaining repeatedly the private client reality test. Noting cliet was extremely distressed but that is the position. Noting we did get her instructions to abandon the claim on a no expenses due to or by basis without enforcement of a contra account. Start: 13:00, End: 14:00	
	Engaged: 1 hour 0 mins (Attended by Michael Thompson (Qualified))	
23/01/2017	Telephone attendance with CLO explaining the position agreeing settlement in principal for non enforcement of contra awards in order to end the case. Noting that he will prepare the joint minute and so on. Start: 14:00, End: 14:30 Engaged: 0 hours 30 mins (Attended by Michael Thompson (Qualified))	29,06
	(Attended by Michael Thompson (Adamica))	!
24/01/2017	Detailed letter to client setting out the circumstances in why we need her urgent instructions 1375WC (11 pages) WC=1375	91.19
3-2 6 08/02/2017	Detailed letter to SLAB requesting breakdown off monies spent on legal aid certificate by other agents in this case so far. 40WC	3.26
08/02/2017	Telephone attendnace with at SLAB noting that legal aid is to be terminated and will remian in place only to settle the cause and get rid of expenses etc Start: 12:00, End: 12:10 Engaged: 0 hours 10 mins (Attended by Michael Thompson (Qualified))	8.29
2001 10		
2097.69		
	Total Charges	3623.00
HB-611	Total VAT	724.60
	Total Outlays	 4347.60 48.00
2517.23	TOTAL CLAIMED	 4395.60



2517.23

4395.60

Less Taxed Off



2517.23 E 1,878.37

EDINBURGH. 28 May 2018. The Auditor taxes this Account at the sum of ONE THOUSAND EIGHT HUNDRED AND SEVENTY EIGHT POUNDS AND THIRTY SEVEN PENCE (£1,878.37).

AUDITOR OF THE COURT OF SESSION

