

Ex parte: [REDACTED]

In re: [REDACTED]

FEE DETERMINATION

1.

The fee notes of Advocate [REDACTED] dated 30 November 2021 for R14 200.00 and dated 14 March 2022 for R10 000.00 are disputed by [REDACTED] [REDACTED] on the basis that they are exorbitant and amount to overreaching.

2.

Before considering the merits of the complaint, it is necessary to bear in mind that the Rules of our Society provide that Counsel is entitled to a reasonable fee for the work which is performed. In terms of Rule 9(c) of our Rules, “fees shall be paid within one month calculated from the first of the month following the month in which the fees accrued, unless otherwise agreed with the consent of the Bar Council”.

3.

In regard to the first fee note, [REDACTED] contend that the fee note should be limited to R10 000.00 as it was agreed that such fee not only included the appearance at the trial

but also any preceding consultations. This is disputed by [REDACTED]. Be that as it may, it is not our function to determine disputes of fact but only the reasonableness or otherwise of the fees charged.

4.

[REDACTED] charged for consultations which lasted for 3½ hours at an hourly rate of R1 200.00. We consider this a reasonable fee taking into account she had been in practice for some three years and that the consultations were necessary to prepare properly for trial.

5.

In regard to the second fee note, [REDACTED] is entitled to a reasonable fee for [REDACTED] attendance on the adjourned date of 14 March 2022. The fact that the matter was adjourned at the expense of the defendants and the trial did not proceed on that day does not disentitle [REDACTED] from charging a fee for the day. [REDACTED] argued the issue of wasted costs on that day and an order was made that the defendant pay the wasted costs occasioned by the adjournment including Counsel's reasonable costs on brief. We consider that the fee of R10 000.00 is reasonable bearing in mind that the amount is the same amount charged for the appearance in November.

6.

There is another matter that needs to be mentioned and that is the criticism about [REDACTED] insistence that the overdue fees of R14 200.00 and R10 000.00 be paid prior to her attending Court on the further adjourned date of 2 June 2022. The first fee note became

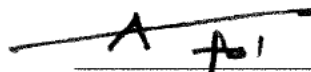
overdue on 1 January 2022 and the second fee note became due on 1 May 2022. Payment of R10 000.00 which [REDACTED] had agreed to pay for the appearance on 30 November 2021 was only paid in two instalments each for R5 000.00 on 28 May and 31 May 2022, some four months after due date. [REDACTED] were advised by email on 13 May 2022 that unless [REDACTED] fees were paid by close of business on 16 May 2022, she would not attend Court on 2 June 2022. In our view, that was sufficient time for [REDACTED] to make alternative arrangements for their client to be represented on 2 June 2022. In these circumstances [REDACTED] did not behave unprofessionally or unethically.

7.

In conclusion, we find that the balance of the fees amounting to R14 200.00 constitute reasonable fees.



N D HOLLIS SC



R SINGH

Fee Dispute Committee

Chambers
DURBAN

20 September 2022

[REDACTED]