



5 June 2009

F18, 66.10

JG; rp

Philip Kellow  
Deputy Registrar  
Federal Court of Australia  
Principal Registry  
Level 16, Law Courts Building  
Queens Square  
SYDNEY NSW 2000

Dear Mr Kellow

### **Costs in the Federal Court**

Thank you for your letter of 12 May 2009 and the opportunity to provide comments on the Draft Costs Scale.

The Costs Committee of the Society considered the matter and arising from that consideration I now provide the following comments:

#### Item

1. ATTENDANCES  
Suggest include "redaction" in this item thereby removing item 15.
  - 1.2 "Associate" needs to be defined. If "associate" is a lawyer, no need for separate (lower) rate. It is the Society's preference that further particulars be provided and term defined before finalising comment.
  - 1.5(a)(i) Concern that no provision is made for work which does not require the exercise of legal skill. It is unclear whether "waiting time" is to be uncharged, or charged at the full "skill" rate.
3. ENGROSSING AND/OR IMPRIMATUR OF DOCUMENTS  
Definition of "imprimatur" is required.
- 8, 9 & 10 PERUSALS/SCANNING/EXAMINATION  
Terminology requires definition. Is
  - "perusing" to cover more complex documents
  - "scanning" to cover costs of less complex documents
  - "examination" equivalent to "scanning" in S.A. Supreme Court scale?

It is suggested that there should be a note to scale as to when it may be appropriate to charge for time spent rather than by page.

Although "folio" is defined in item 25 there is no definition of "page".

11. REVIEW AND CONSIDERATION  
There is concern that this item invites inefficiency and duplication.
12. DELEGATION AND SUPERVISION  
While this item allows the Taxing Officer to consider such claims, practitioners would need more guidance so they can advise on what may be recoverable on a party/party basis.
- 14 & 15 COLLATION PAGINATION & INDEXING / REDACTION  
These could be included in Item 1 since the rates refer back to Item 1.
16. SKILL, CARE AND RESPONSIBILITY  
As this is wholly discretionary some more detailed guidelines would be appropriate. It would be of assistance if detail were provided of where information may be obtained as to percentage likely to be allowed.
- 17,18,19 SHORT FORM BILLS  
These should all be placed at end of scale - immediately before item 25 Interpretation.
20. COUNSEL FEES  
Counsel fees are not solicitors' costs. This should be a Note rather than item in scale.  
20.2 Appears to be incomplete.
21. WITNESSES' EXPENSES  
Not a solicitor cost. Suggest it should be an attachment.
22. ELECTRONIC DOCUMENT MANAGEMENT  
This appears to be a solicitor cost and should be with the body of proper solicitor cost items.
- 23 DISBURSEMENTS  
Not solicitor costs. Should be in separate note.
24. FEES NOT HERE PROVIDED FOR  
Query nature of claims envisaged.
- 25 INTERPRETATION  
Should remain at end of Costs scale.

Other terms to be defined summarised from above comments:

<b>associate</b>	<b>imprimatur</b>	<b>redaction</b>	
<b>examination</b>	<b>peruse</b>	<b>scan</b>	<b>page</b>

I trust that these comments are of assistance and confirm that the Society would be pleased to receive and consider any further drafts.

Yours sincerely



John Goldberg  
**PRESIDENT**