

LEGAL PROFESSION ACT 2008**LEGAL PROFESSION (SUPREME AND DISTRICT COURTS)
(CONTENTIOUS BUSINESS) REPORT 2020**

Made by the Legal Costs Committee under Division 5 of Part 10 of the *Legal Profession Act 2008 (Act)*

PART 1—PRELIMINARY**1 Citation**

- (a) This Report may be cited as the *Legal Profession (Supreme and District Courts) (Contentious Business) Report 2020*.
- (b) The Determination set out in the Schedule to this Report is referred to in this Report as the *Legal Profession (Supreme and District Courts) (Contentious Business) Costs Determination 2020*.

PART 2—NOTICE AND INQUIRIES**2 Notice under section 278 of the Act**

The Legal Costs Committee has complied with the notice provisions of section 278 of the Act.

3 Inquiries and submissions under section 277 of the Act

Before making the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2020*, the Legal Costs Committee—

- (a) reviewed the submissions received as a result of the notice given under section 278 of the Act including those made by The Supreme Court of Western Australia, The Law Society of Western Australia (Inc), Australian Lawyers Alliance, the Public Trustee for Western Australia, Mr Stephen Williams, The Insurance Commission of Western Australia, and a group of practitioners acting in personal injury litigation;
- (b) consulted with The District Court of Western Australia;
- (c) considered the comments and suggestions made at a seminar with members of the legal profession held on 13 February 2020;
- (d) considered the advice of the Australian Government Treasury in respect to the COVID-19 pandemic, published at <https://treasury.gov.au/coronavirus>; and
- (e) considered the impact of changes in relevant Australian Bureau of Statistics data for the period.

PART 3—REPORT OF LEGAL COSTS COMMITTEE'S CONCLUSIONS**4 Incorporation of the costs covered by the Legal Profession (District Court Appeals) (Contentious Business) Determination 2018**

- (a) The information gained as a result of the inquiries and consultations referred to in clause 3 satisfied the Legal Costs Committee that it is no longer necessary to publish a separate *Legal Profession (District Court Appeals) (Contentious Business) Determination*.
- (b) It is the recommendation of the Legal Costs Committee that the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2020* provide for those costs previously included in the *Legal Profession (District Court Appeals) (Contentious Business) Determination 2018*.

5 Maximum hourly and daily rates changed—scale of costs amended

- (a) The information gained as a result of the inquiries and submissions described in clause 3 satisfied the Legal Costs Committee that the manner in which legal services are provided made it appropriate to continue to adopt the hourly and daily rates charged by law practices as the basis for most of the rates used in the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2020*.
- (b) It is the recommendation of the Legal Costs Committee that—
 - (1) as a result of the inquiries and submissions described in clause 3;
 - (2) having considered the impact of relevant Australian Bureau of Statistics data;

- (3) having considered the impact of the COVID-19 pandemic and its projected impact on the Australian economy; and
- (4) taking into account the incidental administrative implications of the calculation of the Goods and Services Tax,

the hourly and daily rates referred to in subclause 5(a) be varied from the hourly and daily rates used in the *Legal Practitioners (Supreme and District Courts) (Contentious Business) Determination 2018*¹, only to the extent of increasing the rates for Counsel in Table A so as to narrow the gap between Counsel rates and those rates charged by Senior Practitioners and Senior Counsel. Those rates are set out in Table A of the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2020*.

- (c) It is the recommendation of the Legal Costs Committee, as a result of the inquiries and submissions described in clause 3, that the scale of costs be varied in the manner set out in Table B of the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2020*.
- (d) The recommendations of the Legal Costs Committee are not intended to override any entitlement of a law practice to make a written agreement as to costs with a client under the Act or any successor legislation.

CLARE THOMPSON, Chair
ANGELA GAFFNEY, Member
MARCUS COCKER, Member
JANICE DUDLEY, Member
MATTHEW CURWOOD, Member
BRENDAN ASHDOWN, Member

Schedule

LEGAL PROFESSION ACT 2008

LEGAL PROFESSION (SUPREME AND DISTRICT COURTS) (CONTENTIOUS BUSINESS) DETERMINATION 2020

Made by the Legal Costs Committee under section 275 of the *Legal Profession Act 2008 (Act)*

1 Citation

This Determination may be cited as the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2020*.

2 Commencement

This Determination comes into operation on 1 July 2020.

3 Application

- (a) This Determination applies to the remuneration of legal practitioners, clerks and paralegals regarding advice given by legal practitioners in respect of contentious business carried out by legal practitioners in or for the purposes of proceedings before the Supreme Court of Western Australia and the District Court of Western Australia.
- (b) This Determination applies to all contentious business previously covered by the *Legal Profession (District Court Appeals) (Contentious Business) Determination 2018* and its predecessor Determinations.
- (c) This Determination does not apply to the remuneration of law practices based on a written agreement as to costs under the *Legal Profession Act 2008* or any successor legislation, to the extent that a law practice is entitled to charge other than in accordance with this Determination.
- (d) This Determination does not apply to the remuneration of law practices for costs incurred before 1 July 2020.

4 Application of 0.66, r11(3), r13, r18, r19, r20(3), r21 and r23 of the Rules of the Supreme Court

In the circumstances set out in Order 66, rules 11(3), 13, 18, 19, 20(3), 21 and 23 of the *Rules of the Supreme Court*, the Legal Costs Committee determines that the Court or the Taxing Officer, as the case may be, has the power to make the orders and allowances referred to in those rules.

5 Item 38 for negotiated motor vehicle personal injury claims

- (a) The introduction of item 38 was explained in the *Legal Profession (Supreme Court) (Contentious Business) Determination 2012* and *Legal Profession (Supreme Court) (Contentious Business) Determination 2014*. Whilst those paragraphs are not reproduced here, they continue to apply and express the Legal Costs Committee's views on the operation of item 38.

¹ Published in Gazette 21 June 2018

- (b) The allowance set out in item 38 is intended to apply to claims for personal injury under the *Motor Vehicle (Third Party Insurance) Act 1943* which follow a standard procedural pathway.

6 Catastrophic personal injury claims

- (a) The introduction of the items in the determinations relating to catastrophic personal injuries was explained in the *Legal Profession (Supreme Court) (Contentious Business) Determination 2012* and *Legal Profession (Supreme Court) (Contentious Business) Determination 2014*.
- (b) Since the introduction of the provisions for catastrophic personal injuries claims in 2012, the District Court decision in *McGlinn as administrator for Jeffrey Craig McGlinn v Joondalup Hospital Pty Ltd [No 2]* [2014] WADC 3 has meant that the stated objective of an early determination that a claim was a catastrophic personal injury claim has been unable to be achieved.
- (c) In light of the decision in *McGlinn as administrator for Jeffrey Craig McGlinn v Joondalup Hospital Pty Ltd [No 2]* [2014] WADC 3 the Legal Costs Committee has decided that a determination as to whether a matter is a catastrophic personal injury claim for the purposes of items 19 and 22 will only require an assessment of the nature or extent of the injury or injuries sustained by the plaintiff that are at issue in the proceedings.
- (d) The Legal Costs Committee remains of the view that determination as to whether a matter involves a catastrophic personal injury should be made as early as possible in proceedings.

7 Counsel fees

- (a) All appearances allowed for in items 10, 11, 17, 22, 25, 26 and 27 of Table B are intended to be charged at the applicable counsel rate, and not at any higher rate that may be applicable to the actual practitioner by reason of the person undertaking the appearance otherwise being entitled to charge as a Senior Practitioner.
- (b) Fees charged by practitioners who practise solely as barristers in accordance with Supreme Court Practice Direction 10.5 are only to be charged at the rates provided for counsel of their seniority in Table A and are not to be charged at rates applicable to a Senior Practitioner.
- (c) The increase in Counsel rates, and no increase in Senior Counsel or Senior Practitioner rates in Table A is designed to narrow the gap between those levels of seniority of legal practitioner and more accurately reflect the market for legal services.
- (d) Recovery of daily fees for counsel on the taxation or assessment of a Bill of Costs is intended to apply only when a full day has been worked, either in Court or in Court and in preparation for a subsequent hearing day.

8 Item 12—Family Provision Act claims

- (a) Item 12 was introduced for claims brought under section 7(1) of the *Family Provision Act 1972* by the *Legal Profession (Supreme and District Courts) (Contentious Business) Determination 2018*.
- (b) Item 12(a) provides a capped maximum allowance for each of the parties. These allowances have been determined without reference to hourly rates and are intended to provide reasonable remuneration for the entirety of the work performed prior to mediation.
- (c) Appropriate reductions in the allowances in item 12(a) should be made for affidavits which include material that goes beyond the requirements of Supreme Court Practice Direction 9.2.2, or any other relevant Practice Direction.
- (d) The maximum allowance provided for the executor or personal representative reflects the limited role executors or personal representatives play in these claims and is based on the premise that the executor or personal representative will only be attending a mediation conference for a limited time at the commencement of the conference and will otherwise be available by telephone. If the executor or personal representative is required, either by the parties or the Court, to attend an entire mediation conference, a separate allowance may be made under item 25 for that purpose.
- (e) Item 12(c) applies to proceedings which do not conclude at mediation.
- (f) The amounts provided for in items 12(a) and 12(b) are the maximum claimable by each party, unless a special costs order is obtained.
- (g) An additional allowance may be made under item 12(a) if a second or subsequent mediation conference is held and the parties have been required to undertake additional work for that second or further mediation. Examples of that additional work include obtaining a valuation or obtaining necessary records relating to the deceased or the administration of the estate.
- (h) Items 12(a)(2) and (3) and 12(b)(2) and (3) are not to both be claimed if the executor and beneficiary defendant are represented by the same legal practitioner.
- (i) A legal practitioner acting for more than one executor or beneficiary defendant may only claim the amounts set out in items 12(a)(2) and (3) and 12(b)(2) and (3) once, and may not claim an amount for each individual executor or beneficiary defendant who they represent.
- (j) A legal practitioner acting for a beneficiary defendant who is also a claimant under the *Family Provision Act* may claim their costs as if they were acting as a plaintiff, from the time the relevant beneficiary defendant commences his or her claim.
- (k) Subject to (d) above, and any appropriate or necessary other orders as to costs, or when a special costs order is made, parties to *Family Provision Act* claims are not able to recover costs under any items of the Determination other than items 3(a), 7 (where ordered), 16, 20,

27 (where ordered in accordance with clause 8(d) above), 32, 33, 34 and 35 (where ordered as between party and party), 36 and 37 (where ordered as between party and party).

- (l) Nothing in item 12 is intended to derogate from the trial Judge's discretion as to the awarding of costs.

9 New item 17—Compromises under RSC Order 70

- (a) Item 17 has been introduced to provide for an application made under RSC Order 70, to compromise a claim made by a person under a disability.
- (b) In recognition that these applications are usually accompanied by an opinion from Counsel, and it is not possible to provide for a set fee for Counsel's opinion given the range of matters which may require consideration in respect to that opinion, Counsel's opinion is allowable in accordance with the rate in Table A, for an amount which is reasonable in the circumstances of the matter.
- (c) It is accepted that on occasions Senior Counsel is briefed to give an opinion, and so if it is considered that the engagement of Senior Counsel is necessary, a special order to that effect is required.
- (d) An allowance for a brief to Counsel is only permitted if Counsel providing the opinion is not otherwise briefed in the proceedings.

10 New item 26—District Court Appeals

- (a) The costs which were claimable under items 1, 2, 3, 4, 5, 6, 7 and 9 of the *Legal Profession (District Court Appeals) (Contentious Business) Determination 2018* and its predecessor determinations have been included in the new item 26.
- (b) Subject to any appropriate or necessary other orders as to costs, or when a special costs order is made, parties to a District Court Appeal are not entitled to recover costs under any items of the Determination other than items 32, 33, 36 and 37.

11 Maximum hourly and daily rates

- (a) The hourly and daily rates set out in Table A are the maximum hourly and daily rates, inclusive of GST, which the Legal Costs Committee determines shall be used to calculate the dollar amounts in the scale of costs set out in Table B. Each item in the scale of costs specifies a dollar amount with reference to the practitioner.
- (b) The rates referred to in paragraph (a) were ascertained in the manner set out in clause 5 of the *Legal Profession (Supreme and District Courts) (Contentious Business) Report 2020*.
- (c) The daily rates set out in Table A are intended to cover all work done on a hearing or trial day, whether in or out of court, including preparation of written submissions and are not intended to be supplemented in any way by additional hourly charges given that the maximum number of hours allowed for the daily rate is 10 hours per day.
- (d) The items in Table B are not intended to be calculated on the basis of a minimum 6 minute unit.

Table A

Fee Earner	Maximum allowable hourly and daily rates
Senior Practitioner (permitted to practise on his or her own account for 5 years or more) (SP) ^o hourly rate	\$495
Junior Practitioner (permitted to practise on his or her own account for less than 5 years) (JP) ^o hourly rate	\$352
Restricted Practitioner (RP) ^{o, #} hourly rate	\$297
Clerk/Paralegal (C/PL) ## hourly rate	\$231
Counsel fees charged as a disbursement to practitioners or charged by in-house Counsel:	
Counsel (C)* hourly rate	\$451
daily rate	\$4,510
Senior Counsel (SC)** hourly rate	\$682
daily rate	\$6,820

^o The reference to Restricted Practitioner, Junior Practitioner or Senior Practitioner in this Determination includes all legal practitioners even if the services were rendered in another State or Territory. Where a local practitioner has held an interstate practising certificate, the length of unrestricted legal practice in that other jurisdiction is to be counted in assessing that practitioner's years of practice for the purposes of this Determination.

- # The reference to Restricted Practitioner in this Determination includes practitioners undertaking restricted legal practice for the purposes of obtaining the required experience set out in section 50 of the Act and does not include a reference to an Australian legal practitioner who has a condition placed on their practising certificate by the Legal Practice Board, State Administrative Tribunal or otherwise, requiring them to practise under supervision for disciplinary, medical or other reasons.
- ## The reference to Clerk/Paralegal in this Determination includes a law graduate prior to their admission to practise as an Australian lawyer.
- * The reference to Counsel in this Determination means a practitioner acting as a barrister other than a Senior Counsel, including, for the purposes of items 10, 11, 17, 22, 25 and 26, a practitioner appearing in court who does not practise in accordance with Supreme Court Practice Direction 10.5.
- ** The reference to Senior Counsel in this Determination means a person within the meaning of item 11 or item 12 of Regulation 5(2) of the *Legal Profession Regulations 2009* (WA).

12 Costs

- (a) Subject to the provisions of the Act permitting a law practice to make a written agreement as to costs with a client, the costs of or in relation to a party to an action or other proceeding, inclusive of GST and counsel fees, but exclusive of other disbursements—
- (1) recoverable by one party from another party; or
 - (2) payable by a party to that party's own law practice,
- shall not exceed the amounts set out in Table B, except as otherwise provided in item 36 of Table B.
- (b) Allowances made under item 36 of Table B are only to be awarded as between a law practice and its client, or if costs are awarded on an indemnity basis and not between party and party, unless the Court otherwise orders.
- (c) Allowances made under item 37(b) of Table B are only to be awarded as between a law practice and its client, or if costs are awarded on an indemnity basis and not between party and party, unless the Court otherwise orders.

13 Fixed amounts

Based upon the Legal Costs Committee's enquiries it has determined that items 1(b), 3(a), 7(a), 15, 16(c), 16(f), 25(a), 26(i), 28(b), 31(a) and 38 in Table B should be fixed amounts.

Table B
Supreme Court Scale of Costs 2020

Item		Time	Fee Earner	\$
1.	Writ			
	(a) Writ of summons, whether specially or generally endorsed, including instructions, but excluding Statement of Claim	1.5 hours	SP	742
	(b) For each additional defendant			77
	(c) Statement of Claim	10 hours	SP	4,950
2.	Next friend or guardian <i>ad litem</i>	3 hours	RP	891
3.	Defence			
	(a) Memorandum of appearance	10 hours	SP	99
	(b) Defence	10 hours	SP	4,950
	(c) Counterclaim			4,950
4.	Reply and other pleadings			
	Reply (if necessary), defence to counterclaim, or any other pleading	10 hours	SP	4,950
5.	(a) Third party notice	2 hours	SP	990
	(b) Pleadings in third party proceedings	6 hours	SP	2,970
6.	(a) Requesting particulars of a pleading (where and to the extent necessary)	3 hours	JP	1,056
	(b) Giving particulars of a pleading	5 hours	JP	1,760
7.	Discovery			
	(a) Notice requiring discovery	10 hours	SP	66
	(b) Giving discovery of documents			4,950

Item		Time	Fee Earning	\$
	<p>(c) All work done following mediation, up to and including judgment, and which is not included in items 12(a) and (b)</p> <p>PROVIDED THAT— Unless the Court otherwise orders, the amount of the costs awarded to a successful claimant shall not exceed an amount equal to the award that the claimant receives.</p>			An amount calculated in accordance with item 11(a), modified so that the reference to 50 hours should read 40 hours
13.	Proceedings in Court not otherwise provided for, including appeals from a Registrar	2 days preparation; ½ day hearing	C	11,275
14.	<p>Listing Conference Attending at a Listing Conference (convened pursuant to Order 29 Rule 8 of the Rules of the Supreme Court or Rule 43 of the District Court Rules) and all necessary preparation</p>	per hour	SP	
15.	Entry of judgment without trial			297
16.	<p>Offers of compromise, notices, practice directions, etc</p> <p>(a) Payment into or out of Court</p> <p>(b) Offer of compromise under O.24A</p> <p>(c) Acknowledgment of offer under O.24A</p> <p>(d) Acceptance of offer of compromise under O.24A</p> <p>(e) Notice of offer to consent to judgment</p> <p>(f) Other notices and certificates referred to or required by the Rules or procedures of the court (including practice directions)</p>	<p>2 hours</p> <p>4 hours</p> <p>4 hours</p> <p>2 hours</p>	<p>JP</p> <p>SP</p> <p>SP</p> <p>SP</p>	<p>704</p> <p>1,980</p> <p>66</p> <p>1,980</p> <p>990</p> <p>77</p>
17.	<p>Application for compromise under O. 70</p> <p>(a) Application for compromise including chamber summons, affidavit in support and all necessary preparation</p> <p>(b) If Counsel's opinion is required, preparation of the brief to Counsel, if not otherwise briefed as Counsel in the proceedings</p> <p>(c) Counsel's opinion</p> <p>Note: an allowance under item 17(c) for Senior Counsel should only be made where in the opinion of the Court it was reasonable to brief Senior Counsel to provide the opinion.</p> <p>(d) Counsel fee on hearing, including preparation and submissions, if any</p> <p>(e) Attendance at hearing by instructing legal practitioner</p>	<p>5</p> <p>10</p> <p>½ day</p> <p>per hour</p>	<p>JP</p> <p>JP</p> <p>C/SC</p> <p>C</p> <p>JP</p>	<p>1,760</p> <p>3,520</p> <p>An amount which is reasonable in the circumstances</p> <p>2,255</p>
18.	<p>Entry for trial/Entry for hearing</p> <p>(a) Advising on, and preparing, documents required to be filed by the Rules of the Supreme Court or the Rules of the District Court</p>	2 hours	SP	990

Item		Time	Fee Earner	\$
	(b) Preparation of Schedules (if any) required by District Court Rules 45C and 45D (c) Advice on evidence Note: In relation to particulars of damages under District Court Rule 45C, if the claim is one declared by the Court to be a catastrophic personal injury claim, the time reasonably spent by a legal practitioner, or by a clerk or paralegal of a legal practitioner in preparation of case for trial, shall not be limited to 8 hours but shall be an amount which is reasonable in the circumstances.	12 hours per hour	SP C/SC	5,940
19.	Preparation of case Preparation of case for trial, includes work reasonably and necessarily undertaken prior to commencement of proceedings Note: If the claim is one declared by the Court to be a catastrophic personal injury claim, the time reasonably spent by a legal practitioner, or by a clerk or paralegal of a legal practitioner in preparation of case for trial shall not be limited to 120 hours but shall be an amount which is reasonable in the circumstances.	120 hours	SP	59,400
20.	Examination of witness before trial, pursuant to an order			An allowance in accordance with item 22(c) or (d)
21.	Application for and striking jury	1 hour	JP	352
22.	Trial (a) Fee on brief, i.e. first day of trial and preparation, including submissions (b) Fee on brief for Senior Counsel, i.e. first day of trial and preparation, including submissions (c) Counsel fee for the second and each successive day of hearing (d) Counsel fee for Senior Counsel for second and each successive day of hearing (e) Instructing legal practitioner attending trial (f) Clerk or Restricted Practitioner attending trial (g) Preparation of written closing submissions— (1) when required for trial; and (2) for provision to the Court and the opposing party prior to any oral addresses; and (3) when the work was undertaken on a day on which the trial was not otherwise sitting; or (4) when required to be filed and served following the Court having reserved its decision.	3.5 days preparation; 1st day of trial 3.5 days preparation; 1st day of trial per hour per hour	C SC C SC SP C/PL RP SC/C	20,295 30,690 4,510 6,820 An amount which is reasonable in the circumstances

Item		Time	Fee Earner	\$
	(j) Senior Counsel fee for the second and each successive day of hearing		SC	6,820
	(k) Instructing legal practitioner attending appeal	per hour	SP/JP	
	(l) Attending on reserved decision, including preparation, consideration of reasons for decision and all necessary work and attendances to obtain final orders	per hour	SP	
26.	District Court Appeals			
	(a) Notice of Appeal or Notice of Contention pursuant to Rule 15 of the District Court Rules 2005	1 hour	SP	495
	(b) Notice of Appeal or Notice of Contention in other appeals	5 hours	SP	2,475
	(c) Interlocutory hearings—as required, including preparation	per hour	C	
	(d) Preparation of appeal for hearing, including preparation of appeal documents and submissions	10 hours	SP	4,950
	(e) Counsel fee on hearing, including preparation	2 days preparation/ 1 day hearing	C SC	13,530 20,460
	(f) Counsel fee for second and each successive day of hearing		C SC	4,510 6,820
	(g) Attendance at appeal by instructing legal practitioner	per hour	SP	
	(h) Attending on reserved decision, including preparation, consideration of reasons for decision and all necessary work and attendances to obtain final orders	per hour	SP	
	(i) Other notices and certificates referred to or required by the Rules or procedures of the Court, including the practice directions			66
27.	Pretrial, mediation, conferrals, or other conferences			
	(a) Where required by order of the Court, by the <i>Rules of the Supreme Court</i> or by practice direction	per hour	SP/SC/C	
	(b) including informal conferences where reasonably held before or after commencement of proceedings	per hour	SP/SC/C	
	(c) attendances by counsel and instructing legal practitioners at the conferrals and conferences set out in paragraphs (a) and (b) of this item	per hour	SP/SC/C	
	(d) preparation reasonably undertaken for the conferrals and conferences described in paragraphs (a), (b) and (c) of this item	per hour	C	
	(e) conferences between counsel and own instructing legal practitioner where reasonably necessary	per hour	SP/SC/C	
28.	Orders			
	Settling and extracting judgment or order			
	(a) With appointment	2 hours	RP	594
	(b) Without appointment			297

Item		Time	Fee Earner	\$
29.	Arbitration proceedings where costs are to be assessed under section 33B(5) of the <i>Commercial Arbitration Act 2012</i> (WA)			The same costs as in an action
30.	Proceedings, whether by action or otherwise, for the recovery of compensation for the taking or resumption of land or any other property by the Crown in right of the State or of the Commonwealth or by any other person, body or instrumentality pursuant to any statutory power			An amount which is reasonable in the circumstances
31.	(a) Execution (b) If against land, an additional	3 hours	RP	352 891
32.	Taxing including drawing (a) Drawing bill of costs and service; and (b) Taxation of costs, including the time spent in preparing for the taxation and time required to be spent attending any mediation or conference convened by the Court or attending to any matter required by the Rules or a Practice Direction		SP	An amount which is reasonable in the circumstances
33.	Copying Copies where reasonably necessary, including of documents for which allowance is otherwise made in this Determination. This item covers all forms of electronic reproduction and copying.	per page		0.165
34.	Accounts and inquiries Taking accounts, inquiries		SP	An amount which is reasonable in the circumstances
35.	Other work (a) Time reasonably spent by a legal practitioner on work requiring the skill of a legal practitioner (of the standing indicated) but not covered by any other item; or (b) Time reasonably spent by a legal practitioner, or by a clerk or paralegal of a legal practitioner, on work not covered by any other item or by paragraph (a) Note: Allowances under item 35 are only to be awarded as between a law practice and its client, or if costs are awarded on an indemnity basis and <i>not</i> between party and party unless the Court otherwise orders.	per hour per hour	SC SP C JP RP C/PL	
36.	Disbursements In addition to the fees and charges allowed under this Determination— (a) As between a law practice and client, a law practice may charge and be allowed disbursements necessarily or reasonably incurred; and (b) As between party and party, a party may be allowed disbursements incurred by that party except insofar as they are of an unreasonable amount or have been unreasonably incurred, so that subject to the above exceptions, that party is fully reimbursed for its disbursements.			

