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## Introducing our new-look Civil Costs e-update

Recent developments

- **Referral fees not too high says ACCC**

The Advisory Committee on Civil Costs (ACCC) has determined that there is no evidence that referral fees are too high, or that the profits of Claims Management Companies are excessive. The Committee was set up to investigate the reason for the 20% - 35% difference between claimant and defendant expense rates in personal injury and clinical negligence cases. Although the ACCC concluded that the difference was almost entirely due to referral fees, it did not accept the contention of Association of British Insurers that the guideline hourly rates were too high and in need of downward adjustment, commensurate with rates charged by defendant solicitors.

- **2010 Guideline Rates approved**

On 25 June 2010 the Master of the Rolls approved the ACCC's recommended 2010 interim guideline hourly rates, which were published earlier this year and took effect from April 2010.

- **Green-light for contingency fees in tribunal cases?**

In *Tel-Ka Talk Limited –v- The Commissioners of HM Revenue and Customs (SCCO, June 2010)* Master Hurst, the senior costs judge, considered the legality of 'no win, no fee' fee agreements in tribunal cases. The solicitors agreed to act on a contingency fee basis and entered into a non-contentious business agreement enabling the company to continue with its claim and recover a VAT repayment owed.

In this case, where the Law Society intervened to argue in support the validity of contingency fees in tribunals, the Senior Costs Judge said that section 57 of the Solicitors Act 1974 clearly made contingency fee agreements lawful for non-contentious work. He also found the VAT and Duties Tribunal was not a court within the meaning of section 87 of the SA 1974, and that therefore the business conducted by the solicitors was non-contentious. The judge specifically rejected the Commissioners' contentions that despite what is said in the SA 1974 contingency agreements are contrary to public policy, and that tribunal proceedings were contentious business.

**\*But note: The VAT and Duties Tribunal has since been abolished and its functions taken over by the Tax Chamber of the First-tier and Upper Tribunals which are 'courts' (section 3(5) TCE Act 2007).**

### DeNovo Costs Cases Database

We are expanding our costs cases database all the time. Recent additions include:

Onay –v- Brown (Part 36 where no agreement on costs)

Drew –v- Whitbread (costs judge wrong to assess costs of exaggerated claim as though the case had been allocated to the fast track)

National Westminster Bank –v- Angeli Luki Kotonou (costs of arranging litigation funding allowed)

Higgins –v- Ministry of Defence (costs of non-local solicitors)

Kris Motor Spares Limited –v- Fox Williams LLP (substantial ATE premium on late incepted policy allowed in full)

Adris and others –v- Royal Bank of Scotland and others (non-party costs award against solicitor who failed to obtain ATE cover)

Widlake –v- BAA (deliberate dishonesty, but claim not dismissed as abuse of process)

Shah –v- Ul-Haq (no general rule permitting strike out in case of fraud relating to associated claim)

**We have recently improved the search function on our free to use database, but please do contact us if you cannot find what you are looking for.**

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## **Introducing our new-look Civil Costs e-update**

### **DeNovo Seminars**

Our free seminars, which cover all important areas of costs law and practice, continue to be of great interest to clients and non-clients alike. The focus this summer has been on the implications of the Jackson review although we are more than happy to tailor costs seminars to your particular needs. We are currently taking bookings for Autumn 2010 and beyond so please do get in touch if you feel that this would be of benefit to you.

*Michael Heslin, Afqar Dean, DeNovo (London) Limited, August 2010*