

# email update

circulated  
March 2011

We had hoped to bring news of the Advisory Committee on Civil Costs' recommendation for the 2011 guideline hourly rates. The publication of the Jackson report has, it seems, pushed matters back a little. The March 2010 ACCC conclusion report recommended that GHRs should be updated annually by the percentage rise in the average earnings index for private sector services or the equivalent, and so for the time being that is the approach that we would recommend to those seeking to apply GHRs in the context of a summary assessment. A table of the latest published GHRs can be downloaded from our website.

With more and more costs cases going to appeal our online database of reported costs cases continues to grow. Our latest updates to the database include detailed reports of the following:

**Minkin –v- Cawderly Kay Fireman & Taylor [2011]**

Where solicitors refused to carry out work until outstanding fees (which were in excess of an estimate) were paid, the refusal constituted a repudiation of the contract and so no fees were payable.

**Falmouth House Freehold Co Limited, Falmouth House Limited –v- Morgan Walker LLP [2010]**

The court of appeal will not interfere with the decision on whether special circumstances under Section 70(3) SA 1974 exist except in a strong case, especially where the judgment has been made by a specialist costs judge.

**Tim Martin Interiors Limited –v- Akin Gump LLP [2010]**

On an assessment under Section 71 SA 1974, a third party is entitled to raise only such objections as the client himself could have raised.

**Gb Gas Holdings Limited –v- Accenture (UK) Limited [2010]**

There is no presumption that there should be an immediate 'forthwith' assessment in relation to preliminary issues trial costs.

**Sousa –v- Waltham Forest LBC [2011]**

Whether it was reasonable for the claimant to have entered into a CFA where the claim was being controlled by insurers under their subrogation rights and where the claimant had the benefit of a full indemnity against costs from the insurers.

Please do feel free to contact us should you wish to discuss any of the issues highlighted in this edition and please do pass on to interested colleagues. We would very much welcome your feedback, which of course can be reflected in future editions.

*Michael Heslin, Afqar Dean, DeNovo (London) Limited, March 2011*