

IN THE HIGH COURT OF SOUTH AFRICA
FREE STATE DIVISION, BLOEMFONTEIN

Case No. : 1666/2010

In the matter between:-

VASILIKI PATRINOS

Applicant

and

CHAVONNES BADENHORST ST CLAIR COOPER
PANAGIOTIS PATRINOS
DR PATRINOS INCORPORATED

1st Respondent

2nd Respondent

3rd Respondent

JUDGMENT BY: PHALATSI, AJ

HEARD ON: IN CHAMBERS

DELIVERED ON: 14 NOVEMBER 2013

- [1] This is an application for review of taxation. It appears that the bill of costs under review was taxed on 18 June 2012. When the file was firstly brought to my attention, there were piles of papers and different bills which dealt with different stages of the matter. It was after a long struggle that I got the bill which forms the subject matter of this review, resulting in a delay in the finalisation of this judgment.
- [2] This bill is for the main application and relates to fees and disbursements due and owing to Messrs Christo Dippenaar Attorneys, Bloemfontein, who are attorneys for the first respondent, on the scale as between party and party. The taxing master was Mr Masoka, whilst Ms Jones appeared on behalf of the first respondent

and advocate Patrinos, who it would seem is the applicant, appeared personally, during the taxation.

- [3] I will only deal with items in respect of which there is a dispute between the applicant and the taxing master and leave out those that the taxing master concede that they should be or should have been taxed off.
- [4] The first objection is that the first respondent has submitted the bills on piece meal basis for taxation and this has unfairly increased taxation fees. It is always desirable that all bills should be taxed simultaneously, if this is possible. However, in respect of taxation fees, because of the fact that the same percentage is allowed on different amounts, I find that the end result will always be the same and the party against whom the bill is taxed, could not be disadvantaged thereby.
- [5] Generally, an attorney is not only entitled, but also obliged to peruse each and every document in respect of the case that he/she handles, even those documents which are drafted by his/her own counsel. It cannot be said that because counsel has perused a document, the perusal of the same document by an attorney is a duplication, as he/she is entitled, and indeed obliged, to peruse same. I therefore find all items objected against on this ground, must stand. Items, 1,5,7,17,19,21,33,45,47 and 71.
- [6] Where a litigant is him/herself an attorney or advocate, this factor should always be taken into account in determining the time of consultation with him/her. It will naturally take a lesser time to consult

with him/her than it would with a lay person. Items 3 and 12 should therefore be reduced to 15 minutes each and items 22 and 24 should be taxed off. Item 15 should also be taxed off as it should have been done simultaneously with item 12, as the client is not a lay person.

- [7] The objections in respect of the following items cannot be upheld and I agree with the decision of the taxing master viz: items 13,14,16,23,25 to 32, 49, 54, 70, 73 and 74.

[8] **Item 50**

Counsel's account: In light of the fact that there had been postponements, most matters were considered more than once. I therefore find that in all items that are allowed, which relate to the main application and exclude travelling costs, counsel's fees should be allowed at R1 000,00 per hour. I do not see any items relating to day fee and preparation fees in counsel's account. I therefore do not see how the taxing master can allow (an) item(s) which is (are) not in the account. I consequently find that these items should be taxed off and counsel's fees be calculated as I have indicated above.

[9] **Items 57, 58, 80 and 81**

Taxation of bills should not be relegated to horse trading. The party taxing the bill has the file with him/her and it is therefore easy to prove the number of letters written and received, if there is an objection thereto. The taxing master must therefore only allow the letters that have been proved. In respect of telephone calls made and received, it is usually not possible to note them, as some calls are made or received whilst the attorney either does not have the file

or is out of office. In the light hereof, I uphold the decision of the taxing master.

[10] **VAT**

It is trite that where a litigant is a VAT vendor, such VAT is not allowable on taxation as the vendor, will offset output tax as against input VAT with the Receiver of Revenue. It is clear that the first respondent was not involved in these proceedings in his personal capacity. The only reasonable conclusion is that he was involved in the proceedings in his professional capacity, in an incorporated company which is a VAT vendor. It is also clear from counsel's invoice that he is also a VAT vendor. I therefore find VAT on both the first respondent's account and advocate's invoices should not be allowed.

ORDER

[11] I therefore make the following order:

- 11.1 The applicant's review application succeeds to the extent indicated in this judgment;
- 11.2 The taxing master is directed to adjust the allocation accordingly:
- 11.3 No order as to costs as the first respondent did not oppose the review application.

N. W. PHALATSI, AJ