IN THE HIGH COURT OF SOUTH AFRICA
(TRANSVAAL PROVINCIAL DIVISION)

CASE NO: 36216/06

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: ~~YES~~/NO
(2) OF INTEREST TO OTHER JUDGES: YES/NO
(3) REVISED

DATE 2008.06.20 SIGNATURE

In the matter between:

RIAAN MAURITZ ALAN VAN DER MERWE	First Applicant
~~NOELENE VAN DER MERWE~~	~~Second Applicant~~
and	
THE LAW SOCIETY OF THE NORTHERN PROVINCES (Incorporated as THE LAW SOCIETY OF THE TRANSVAAL)	First Respondent
MARIèTTE GELDENHUYS	Second Respondent
MULA KHALIF MIRE	Third Respondent
AJAN ALI ABDJI	Fourth Respondent
THE MASTER OF THE HIGH COURT	Fifth Respondent

JUDGMENT

RAMAGAGA, AJ

Third and Fourth Respondents sued Gauteng Province and others for damages arising from medical negligence by the Gauteng Provincial Hospital and its staff.

They were represented by the applicant's law firm on contingency fees agreement basis. The claim was settled at *R3 200 000* and the applicants drew a fee of *R800 000* which constituted 25% of the amount awarded. The enquiry is whether in terms of the statutory contingency fees Act, the legal practitioners are entitled to a flat fee of 25% of the amount awarded or not.

The applicants are Attorneys of this Court who at all relevant times practised as such under the name and style of N. Van der Merwe Attorneys within the jurisdiction of the First Respondent (hereinafter referred to as the Law Society). The Second Respondent is the *curator bonis* of Yayaha Khalif Mire the minor child. Third and Fourth respondents are the parents of the minor child.

The minor child was a patient at Conoration Hospital when he suffered brain damage as a result of the negligence of the hospital and staff. His family did not have funds to litigate, as a result, third respondent instructed the applicants' law firm to prosecute a delictual claim of himself, his wife and their minor child on common law contingency basis. The contingency fees agreement was concluded on the 16th January 1999. The Contingency Fees Act came into operation in April 1999. After the commencement of the Act, the parties substituted the common law fees agreement with the statutory one and kept the effective date as the 16th January 1999. As instructed by the Third Respondent, the Applicants issued summons. The action was settled by an agreement which was made an order of the court on the 14th February 2001. The relevant terms of the court order were:

a) Payment of *R3 200 000* made up as follows:

For the minor child			*R2 950 000.00*
(i) Capital	*R2 750 000.00*		
(ii) Curator's fees	*R 200 000.00*		
For the 3rd and 4th Respondents			*R 250 000.00*
(iii) Third respondent		*R100 000.00*	
(iv) Fourth respondent		*R150 000.00*	

b) Appointment of curator

that the 1st applicant be appointed as *curator bonis* of the minor child, which curator would perform its duties and exercise its powers subject to the consent and approval of the Master of the High Court.

c) Costs

That the Gauteng Province pay:

v) Plaintiffs' taxed party and party costs.

vii) Costs of all necessary expert witnesses including consultation, preparation and reservation for trial.

First applicant assumed the duties of the *curator bonis* of the minor child from the date of the court order until the 26th June 2001 when the court substituted him with a Mr Hoossen. On the 30th September 2003, Mr Hoossen was substituted with second respondent. After her appointment, the second respondent questioned the acceptability of the contingency fees agreement in respect of the minor child and raised an issue about the interpretation of the Contingency Fees Act. It surfaced that neither the first applicant nor Mr Hoossen had ever lodged the prescribed reports with the master during the period of their tenure as curators. Mr Hoossen is not relevant to this on becoming aware of the second respondent's concerns, the Master supported the second respondent and expressed a view that even in instances where a contingency fees agreement was in place, it was still required of the legal practitioners to charge reasonable fees. Second respondent referred the applicants' bill to the taxing master for taxation. Applicants objected on the grounds that the taxing master did not have locus standi to tax the bill and argued that in the event there was a dispute regarding chargeable fees, the competent authority to consider the dispute was the Law Society. Second respondent referred the matter to the Law Society which constituted a fees assessment committee, but the applicants objected and challenged the committee's locus standi to consider the matter. The objection was overruled. The minor child died in September 2006 and in November 2006 the applicants launched this review application. Third respondent was appointed executor of the deceased estate of the minor child, he appointed second respondent to represent him in the administration of the estate.

I now turn to deal with *points in limine* raised in this application.

Appointment of Curator bonis

The applicants argue that the second respondent was not properly appointed and thus lacks the locus *standi in judicio*. It is significant to point out that both in the case where the court ordered that the first applicant be appointed curator and in the case where the court appointed the second respondent as curator it was ordered that the curator would perform its duties and exercise its powers subject to the consent and approval of the Master of the High Court. Contrary to the court order and in contravention of Section 71(1) of the Administration of the Estates Act, first applicant received and administered monies belonging to the minor child without letters of curatorship. He assumed the duties of the curator while he was just a putative curator. Acts done without the authority of letters of curatorship are invalid. *See Bouwer NO v Saambou Bank Bpk 1993(4) SA 492*. On the other hand, second respondent acting in compliance with the court order and the Administration of Estate Act, obtained letters of curatorship from the Master before she assumed her duties as curator. There is no doubt that second respondent was properly appointed and authorised to administer the affairs of the minor child. Consequently the applicant's objection in this regard lacks merit and is dismissed.

The contingency fee agreement does not bind the minor

The second respondent argues this point on the grounds that:

- the third respondent did not conclude the agreement in a representative capacity on behalf of the minor. The basis of the argument is that nowhere in the contract is fit mentioned that third respondent was also acting as the minor child's representative.
- the first applicant had no authority to act as he did not have letters of appointment.
- the first applicant did not act in the best interests of the minor by adopting the contingency fees agreement.

The third respondent instructed the applicants to prosecute the delictual action of the minor child, his wife and himself on contingency basis. I agree with the applicants that is settled law that where a delictual action is instituted by the minors' guardian or *curator and litem*, the claimant is the minor and not the guardian O' linsky v Prinsloo SA 1964(4)OPD 843 at 847E-F "minderjarige wat vir doeleindes van litigasie bygestaan word deur sy vader of voog, word regtens as een verweerder beskou. Die minderjarige in hierdie geval bly self die litigant ofskoon sy verskyningsbevoegdheid wat hy anders nie het nie, aangevul word met die nodige auctoritas en die vrug of verlies wat die saak mag afwerp wanneer hy so bygestaan word, val hom toe". And also see Mokhesi, NO v Demas SA 1951 (2) TPD 502 when dealing with the question as to who the claimant is the Court said the following at 503 A " He (*the father*) claims purely in his capacity as the father and natural guardian of his miner daughter. The action is her action (*minor daughters*) not the father's".

In considering whether in the circumstances of this case, the Contingency Fees Agreement does or does not bind the minor child I will not only look at the express provisions of the written contract but I will also look at the overriding purpose which the fees contract was intended to achieve. I will also consider the fact that the Contingency Fees Agreement Act was passed to ensure, amongst others, that legal assistance is provided to those for whom legal services are beyond their reach because of financial constraints. This goal can only be achieved by striking the balance between the interests of the affected litigants and those of the legal practitioners. The third respondent did not have funds to pay for litigation, his family was equally without funds. He concluded the contract with the applicants in order to facilitate access to justice by the minor child, his wife and himself. Generally, without the guarantee of fees on an agreed tariff in the event of success, legal practitioners would be reluctant to prosecute claims of those who lack the locus standi. It could not have been envisaged by the legislature that those who lack the locus standi be excluded from reaping the benefits that flow from this legislation. Contracts concluded on behalf of minors by competent people are binding and enforceable provided that they are neither illegal nor contrary to the interests of the minors. When third respondent concluded the contract in January 1999 and subsequently substituted it, he was competent to act for the minor child. While it is so that nowhere in the agreement is it stated that the third respondent was also acting on behalf of the minor, the facts point to one reasonable conclusion to be drawn and that is that he meant to bind all three claimants and also that the applicants accepted the instructions on that understanding. Bearing in mind the circumstances in which the third respondent concluded the agreement, I am satisfied that by concluding the agreement, the third respondent acted in the best interests of the minor child. I have already made a finding regarding first applicant's lack of authority to administer the minor child's affairs.

The Power of the Executor to recover any monies unduly paid.

The applicants argue that the Executor is not entitled to claim recovery of any payments made during the lifetime of the deceased minor child as the executor is not a successor in title of the minor child. Further the applicants argue that payment was valid because it was made by a *curator bonis*. I have already dealt with the first applicant's incompetence to receive and administer the minor child's monies due to lack of authority. On the facts of this case it would seem that the first curator duly authorised and empowered to receive and administer the minor child's assets was the second respondent. The first applicant's argument that when payment of fees was made, it was made by a curator bonis can thus not hold water and is rejected. What is even worse is that the first applicant was glaringly conflicted when we received the monies of the minor child. The executor is the custodian of the interests of the deceased estate, empowered to lodge claims if any in favour of the estate, assess claims against the estate and if satisfied, settle those claims. The monies that were paid as compensation for the minor child became part of his estate and any monies that were unduly paid from the settlement claim are claims in favour of the estate and the executor is empowered to lodge such claims. Regard being had to the fact that for all intents and purposes the minor child did not have a curator until the second respondent obtained letters of curatorship and all the facts of this case, I there is no doubt in my mind that the executor is entitled to follow the assets of the deceased wherever they are, account to the Master of the High Court and distribute them accordingly. Applicant's argument that the Executor is not entitled to claim recovery of any payments made during the lifetime of the minor child is thus dismissed.

The Power to the Law Society to Assess or Review

Upon refusal of the Applicants to subject their bill for taxation, the second respondent referred the matter to the Law Society to review the fees. The Law Society constituted a fees assessment committee to assess the applicants' fees. The applicants challenged the locus standi of this committee on the grounds that:

1. RULE 80

In litigious matters, the fees assessment committee can only do an assessment if the affected parties have given consent. In this case, the applicants argue that they did not consent to assessment in terms of Rule 80 of the Attorneys Act but that they consented to review in terms of Section 5 of the Contingency Fees Act. Further, the applicants argue that the committee lacks the locus standi to review the in terms of Section 5 of the Contingency Fees Act because this section empowers the professional body to review and not the committee. I pause here to deal with the latter argument. It is my view that this argument lacks merit in that the council being the governing arm of the professional body, is empowered to delegate its authority to duly constituted committees or anyone whomsoever the council finds fit. Only in cases where delegation of powers is prohibited may the council not delegate its powers. Regarding the former argument of lack of consent, it is my observation that the applicants only raised an argument of consent after the assessment committee had been constituted. It is my view that the applicants' argument lack of locus standi based on lack of consent is valid. A committee constituted in terms of Rule 80 requires consent for it to be empowered to do the assessment. In this regard the relevant extracts of Rule 80 read as follows:

" 80.1 It shall be competent for the Council or any Committee appointed by the Council for that purpose, at the request of any person or member, to assess the fees and reasonable disbursements payable by such person to a member in respect of the performance of work in his capacity as a practitioner, provided that the Council or the Committee shall not assess fees or disbursements:-

80.1.1......................................

80.1.2......................................

80.1.3. In litigious matters, unless the parties agree that the fees and disbursements are subject to assessment by the Council or a Committee appointed by the Council for that purpose."

What now comes to mind is whether an assessment committee constituted in terms of Rule 80 of the Attorneys Act can also function as a review committee delegated to review the agreement or fees in terms of Section 5 of the Contingency Act. Section 5 of the Act provides that:

"(1) A client of a legal practitioner who has entered into a contingency fees agreement and who feels aggrieved by any provision thereof or any fees chargeable in terms thereof may refer such agreement or fees to the professional controlling body or, in the case of a legal practitioner who is not a member of professional controlling body, to such body or person as the Minster of Justice may designate by notice in the *Gazzette* for the purposes of this section.

(2) Such professional controlling body or designated body or person may review any such agreement and set aside any provision thereof or any fees claimable in terms thereof if in his, her or its opinion the provision or fees are unreasonable or unjust".

Rule 80 empowers the council to assess fees and reasonable disbursements payable to a member while Section 5 empowers the professional body to review the fees chargeable and the fees agreement entered between the legal practitioner and client. It is thus my view that a committee constituted in terms of Rule 80 is not empowered to perform the functions of the Law Society relating to review in terms of Section 5 of the Contingency Fees Act. Only a committee constituted and delegated to perform its duties in terms of Section 5 can discharge those functions.

2. <u>Section 5(1) Review</u>

The applicants argue that the second respondent lacks jurisdiction to refer the matter to the Law Society because she is not the client, and in terms of Section 5 it is a client that must refer the matter. Further, the applicants argue that the second respondent is not the client that feels aggrieved and further that the review should relate to chargeable fees and not fees already paid. When dealing with arguments advanced on this point, I can not lose sight of fact that the second respondents as curator, represented a minor child that was less than three years old when his claim was settled and the appellants proportionately drew 25% of capital awarded to the minor and his curator. While I have already stated that the minor child being the claimant is in fact the client, in the same breadth, I want to state that the minor child lacked the locus standi, second respondent is the one that was charged with the responsibility to act for the minor child. Second respondent was authorised in November 2003 to administer the assets and affairs of the minor child, It is not clear from the record as to when she received the authorising letters. What is clear is that when she assumed here duties, there had not been any accounts or reports lodged with the master. The appellants advance an argument that whatever the first applicant did while he was the "curator" was valid and binding and could not be interferred with by the second respondent. I have already stated that the first applicant acted without authority and thus his actions were not valid. The person vested with the powers to raise concerns regarding the minor child's assets and to take necessary steps to recover the assets is the second respondent. Obviously the minor child as client had no means, ways or capacity to independently raise any issue regarding his affairs, he needed a curator to advance his course. When seeking for a review, the second respondent based her complaint on the Interpretation of the agreement as well as fees that applicants ought to have charged. In support of her complaint, she made reference to a comparison between the party and party bill and the global amount charged by the applicants. I am satisfied that the second respondent has the locus standi to refer the claim to the Law Society and further that prima-facie she has made necessary averments to support her claim for review. My reading of the Act is that Section 5 of the Act is meant to address any grievances relating to fees already charged and paid and fees charged but still to be paid. In the circumstances it is my finding that the word charged or chargeable can be interchangeably used in this regard. In the result, the applicant's argument regarding the Law Society's power to discharge its functions in terms of Section 5 through a delegated committee or person cannot stand and is thus dismissed. Also the argument that the Act is only concern with fees that are still due to be paid is dismissed. The interpretation of the Contingency Fee Act will be dealt with later in this judgment.

Interpretation of Section 2 of the Contingency Fees Act

I now turn to deal with the interpretation of the Contingency Fees Act with reference to chargeable fees in terms of Section 2 of the Act. Section 2 of the Act provides as follows:

"(1). Notwithstanding anything to the contrary in any law or the common law, a legal practitioner may, if in his or her opinion there are reasonable prospects that his or her client may be successful in any proceedings, enter into an agreement with such client in which it is agreed,

(a) that the legal practitioner shall not be entitled to any fees for services rendered in respect of such proceedings unless such client is successful in such proceedings to the extent set out in such agreement;

(b) that the legal practitioner shall be entitled to fees equal to or, subject to subsection (2), higher than his or her normal fees, set out in such agreement, for any such services rendered, if such client is successful in such proceedings to the extent set out in such agreement.

(2). Any fees referred to in subsection (1) (b) which are higher than the normal fees of the legal practitioner concerned (hereinafter referred to as the 'success fees'), shall not exceed such normal fees by more than 100 per cent: Provided that, in the case of claims sounding in money, the total of any such success fee payable by the client to the legal practitioner, shall not exceed 25 per cent of the total amount awarded or any amount obtained by the client in consequence of the proceedings concerned, which amount shall not, for purposes of calculating such excess, include any costs".

It is common cause that:

- the common law contingency fees agreement concluded between the Applicants and the Third Respondent in January 2001 was superceded by the Agreement subsequently concluded in terms of the contingency fees Act of 1997.

- the contingency fees agreement between the applicants, and the Third Respondent is a binding and enforceable agreement.
- *R800 000* fees debited by the Applicants constitute 25% of *R3 200 000* received

At issue here is whether in terms of the Contingency Fees Act, the applicants are entitled to 25% flat fee on the amount awarded plus disbursements or not. Applicants contend that they are entitled to 25% of the settlement figure, plus disbursements, including counsel's fees. Further they argue that their contingency fee agreement clearly stipulates this, and there is no basis for any fees to be assessed. On the other hand, the Respondents contend that the applicants are entitled to not more than double their normal fee provided that the fee does not exceed 25% of the settlement amount.

Before dealing with the interpretation of the Act I deem it appropriate to digress and consider whether when the contingency fees is calculated in cases where double the normal attorneys fee is in excess of 25% of the total award, should the curator's fees be debited with the 25% or not. Though this issue was not argued by either of the parties, I hold a view that this question is an integral part of the interpretation of the Act with reference to calculation of fees especially where the 25% capping has to be invoked and I should thus pronounce on it. It is my view that the curator's fees is provision for disbursements and should thus not be considered. Even if the Act were to allow a flat 25% fee, it would be wrong to consider the *R200 000* curator's fees received when making a calculation of fees payable. In the instant case, the first applicant ought to have been sensitive to the fact that the *R200 000* curator's fees was provision for services still to be rendered by him and/or his successors.

Turning back to the contingency fees agreement in question, the relevant clauses of the statutory contingency fees agreement read as follows:

"5. The Attorney hereby warrants that the normal fees on an attorney and own client basis to perform work in connection with the aforementioned proceedings are calculated on the following basis *R500 per hour for attorney.*

6. The parties agree that if the client is successful in the aforementioned proceedings an amount shall be payable to the Attorney, calculated according to the following method: *R1000.00 per hour but not more than 25% of the successful claim amount plus expenses which includes and consists of doctors' fees, advocates and any other expenses.*

Nota Bene: If the success fee is higher than the Attorneys normal fees, such higher fee may

- not exceed the Attorney's normal fees by more than 100%, and
- in the case of a claim sounding in money, not exceed 25% of the total amount awarded or any amount obtained by the client in consequence of the proceedings"

After receiving *R3 200 000* the applicants wrote a letter to the third respondent advising him of payment received and also giving a preliminary account of monies received. The relevant extract of applicant's letter dated 26th March 2001 reads. "We confirm that the amount of *R3 200 000.00* was received from the state, which amount was placed in a trust investment, as per statement provided to you. The written agreement between this firm and you states that *our fees may not exceed 25% of the successful claim amount* plus expenses, and therefore our account for fees, excluding expenses, *may not exceed R800 000.* Further Adv Hattingh has confirmed that his account will not exceed *R200 000.* Please take note however that the aforesaid amounts are the maximum of our *respective* accounts, but that the totals of the said accounts may be less, in which case the difference will be paid out to you and your wife"

In order for one to get a better understanding of the Act, it is essential that one also considers the historical backround of the South African Law regarding chargeable fees by the legal practitioner. In our law, the basic premise of the fee structure of legal practitioners is reasonableness. This Act was passed with the intention of promoting access to justice while at the same time rewarding legal practitioners that take the risk of accepting work without guaranteed payment or reimbursement for costs incurred. In an endeavour to strike the balance between the interests of the needy public as well as the interests of legal practitioners, the legislature built into the Act restrictions relating to chargeable fees. The purpose of the restriction was to guard against a substantial amount of, or all the proceeds of litigation being swallowed by the legal fees. I can find no ambiguity in the language of the provision in question and in fact it is my finding that by introducing this Act, the legislature did not depart from the age old approach of reasonableness when assessing chargeable fees. This purpose was clearly considered when the Contingency Fees Bill was debated before the Portfolio Committee of the Department of Justice on the 18th day of September 1997 when Ms D.P. Jana reiterated the safeguards outlined by the Deputy Minister of Justice that "A strategic safeguard is a ceiling prescribed for the quantum of the legal practitioners' fees in such circumstances. Firstly, success fees should not exceed 100% of the normal fees, and secondly the total fees, including advocates' fees where applicable, should not exceed 25% of the proceeds from the successful litigation. This will avoid a situation where most if not all of such proceeds are absorbed in legal costs, and consequently the litigant is left with little or nothing at the end". I also find that the legislation is in perfect conformity with the intention of the legislature. The agreement between applicants and the third respondent is also not ambiguous but is in conformity with the Act in this regard. What militates very strongly against the construction advanced by the applicants is their aforesaid letter of the 26th March 2001 to the third respondent. I do not think that the evidence as contained in this letter substantiates the averment that the applicants are entitled to a flat fee of 25%. In fact the evidence flies right in the face of this averment and advances the argument of the respondents regarding fees to be charged. I have no difficulty in coming to the conclusion that the Act clearly and unambiguously expresses the intention of the legislature to protect the needy public by capping the chargeable fees. To sum up thus far, I am persuaded that the applicants and third respondent concluded the agreement on the understanding that the applicants were entitled to *R1000.00* per hour provided that the total success fees charged would not exceed 25% of the total amount awarded. This is expressed in clear terms in the contingency fee agreement.

I now turn to the question whether the 25% capping relates to a total amount awarded or whether each legal practitioner involved in the matter is entitled to

25% of the total awarded. I have already alluded to the fact that the legislature was concerned with the adequate protection of the needy public when concluding contingency fees agreements. One of the concerns was to prevent a situation where most if not all of the proceeds of the award are absorbed in legal costs with the result that the litigant, the very person that was meant to benefit from the litigation, is left with little or nothing at the end. The relevant provisions Section (2) of the contingency Act read as follows:

"any fees referred to in subsection (1) (b) which are higher than the normal fees of the legal practitioner concerned (hereinafter referred to as the 'success fee'), shall *not exceed such normal fees by more than 100 per cent:* Provided that, in the case of claims sounding in money, the total of any such success fee payable by the *client* to the legal practitioner, shall not exceed 25% of the total amount awarded or any amount obtained by the client in consequence of the proceedings concerned, which amount shall not, for purposes of calculating such excess, include any costs'. The provision relating to 25% clearly states that the total of any such success fees shall not exceed 25% of the total amount awarded. It is not without reason that the legislature has made reference to the word total, this is an indication of the total sum of success fees payable by client in relation to the total amount awarded. I thus find that the 25% capping relates to the total amount of success fees as against the total amount awarded irrespective of the number of legal practitioners involved. See the Law of Contingency Fee in South Africa by K G Druker at page 10 referring to the opinion of Adv M. Wallis SC said the following:

" Wallis has no hesitation in expressing the view that the 25% cap " is a global limitation on the fees recoverable by all legal practitioners involved in a case". Counsel's fees will be treated as a disbursement by attorneys when drafting a bill of costs'.

The applicants argue that there are possibilities of prescriptions relating to the executor's claims and it would thus not be proper to grant an order in accordance with the prayers as contained in the respondent's counter application.

The history of this case is clear, the minor child's interests were left to take care of themselves until the second respondent was appointed the curator. The second respondent soon after assuming her duties referred the matter to the taxing master and ultimately to the Law Society while the minor child was still alive. The argument of delayed review cannot arise in the circumstances of this case. I also find it strange that the applicants suggest that the matter was referred for review only six years after the account had been rendered while they know fully well that the second respondent referred the matter in 2005 for review. The applicants became aware of their right to apply for a review while the minor child was still alive but chose to launch their application after his death. The rights pertaining to the claim awarded and fees accrued arose during the lifetime of the minor child and could thus not automatically be extinguished when he died. The applicants do not profer an explanation whether a final account that they had promised the third respondent was ever rendered or not and if so, how much was retained. In the circumstances it is reasonable to conclude that the final account was not rendered and thus remains outstanding. I agree with the second respondent that this case needs to be finalized once and for all. In the circumstances, it is ordered that:

1. The application of the Applicants be and is hereby dismissed.

2. The counter application of the Second Respondent is upheld and the following order is made in respect thereof:

   2.1. The Law Society of the Northern Provinces is authorised to review the attorney and client fees charged by the applicants in respect of Case No: 22519/99.

   2.2. Applicants are ordered to forthwith present their bill of costs in case No: 22519/99 for review by the council of the Law Society of Northern Provinces or its delegate, in terms of Section 5 of the Contingency Fees Act.

   2.3. The applicants are ordered to submit the complete taxed party and party costs bill as well as a complete attorney and client bill including disbursements and all supporting documents to the Law Society and the second respondent for the purpose of review.

2.4. In the event of the fees already debited by the Applicants in respect of case No: 22519/99 exceeding the fees so assessed (as contemplated in order 2.2. and 2.3. above), the applicants are hereby ordered to jointly and severally, pay the full amount of such excess to the second respondent, together with interest thereon calculated at the rate of 15,5% per annum from 26 March 2001 up to and including the date of final payment.

3. It is declared that the maximum limit of 25% of the sum awarded as contemplated by Section 2(2) of the Contingency Fees Act applies collectively to the fees of all legal practitioners engaged, in this case, both the Applicants and the Counsel.

4. The applicants are ordered jointly and severally, to pay the costs of this application, including counter application, on the scale between attorney and client.

RAMAGAGA AJ