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Our Ref  
JJH/MAS/165443.0012  
Date  
16 August 2021

**By Email**

Dear Sirs

**R (Jennifer Dawes) v Secretary of State for Transport (Defendant) and Riveroak Strategic Partners Ltd (Interested Party)**  
**Claim number: CO/2917/2020**

We refer to your letter of 30 July 2021. Please note the following points in relation to your various observations:

1. It is frankly outrageous that you would seek to recover £300 per hour for the provision of further information which ought to have been provided in any event. It is standard practice when submitting a costs schedule to provide time narratives or otherwise adequate particularisation of work. Clearly this is an exercise that ought to be carried out by a junior fee earner or member of support staff, rather than a partner. We are confident that additional costs at this rate would not be recovered on a detailed assessment.
2. As stated in our letter of 2 July 2021, your Schedule of Costs does not provide sufficient detail to enable our client to properly assess your claim. You state that further particularisation is not necessary on the basis that your claim involves “*relatively modest costs that would self-evidently have been incurred.*” We do not agree. In particular, a large proportion of your claim relates to Counsel’s fees of £15,000 for the review of the IP’s Detailed Grounds of Defence. This figure is plainly excessive. By way of comparison, our Counsel, Michael Humphries QC, produced the same Detailed Ground for fees of £6,000. The reason for such a substantial discrepancy is difficult to fathom, particularly as you also claim a further £2,000 of fee earner time for “work on documents” (which, in the absence of further explanation, we can only conclude refers to the same exercise).

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Please provide a copy of counsel's fee note or, alternatively, sufficient particularisation for us to properly consider these costs. Please note that any skeleton argument prepared prematurely by Counsel will not be recoverable as a settlement was agreed between the parties some two months before the scheduled trial date.

3. We are of course aware of the Order of Mrs Justice Lang, which applies a liability cap of £35,000 in respect of the IP. You will be aware that the cap was intended to cover the entirety of the litigation, up to and including the trial. In the event, the case settled well in advance of trial, precluding the need to incur substantial areas of cost, for example, preparing trial bundles, Counsel's skeleton arguments and appearance fees, all of which would have had to be brought within this figure in order to be recovered. In limiting costs recovery to £35,000 Mrs Justice Lang did not remove the requirement for any costs claim to be reasonable and proportionate in accordance with the usual rules. In fact the need for transparency of costs is arguably greater in cases funded at arms' length by members of the public, as in this case.
4. We note your position in relation to hourly rates. However, your client is claiming fees at rates that exceed not only the current guidelines but also the relevant rates proposed by the Civil Justice Council Guideline Hourly Rates Working Group in its report, dated January 2021. We reserve the right to bring this to the Judge's attention on detailed assessment.

Based on the information provided, our client maintains its position that this claim for costs is unreasonable, and is not agreed.

Yours faithfully



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