



## NOTICE TO THE PROFESSION

### APPLICATIONS IN PARTY PARTY TAXATIONS

#### 1. Obligations on Practitioners.

The *Civil Procedure Act* 2010 requires the Court to give effect to the overarching purpose of facilitating the 'just, efficient, timely and cost-effective resolution of the real issues in dispute' (s 7). The Court and parties have overarching obligations to use the most efficient practices to resolve a dispute (s 22), narrow issues in the dispute (s 23) and ensure that costs are reasonable and proportionate (s 24). In keeping with the purpose and obligations it is desirable to change the way that the Costs Court lists inter-partes taxations of costs.

The new listing procedures will no longer require inter-partes taxations to be listed in the monthly Callover.

#### 2. Listings by Registry - TO COMMENCE ON 1 March 2016

To commence a proceeding in the Costs Court, parties must file a Summons for Taxation, the bill of costs, the Party Party Taxation Information Form (see paragraph 3), a copy of the costs order, judgement or deed of release, and payment of the requisite filing fee.

##### eFiling of documentation relating to a Party Party proceeding

In the case where a party wishes to initiate a proceeding electronically, they must firstly email the completed Party Party Taxation Information Sheet to:

[costs.court@supremecourt.vic.gov.au](mailto:costs.court@supremecourt.vic.gov.au)

The next available date will be nominated and communicated back to the party, who will then be in a position to efile via Citec the Summons for Taxation, the bill of costs, the Party Party Taxation Information Form (see paragraph 3), a copy of the costs order, judgement or deed of release, and payment of the requisite filing fee.

All Party Party bills of costs will be listed as follows at the time of filing.

- **All Bills of less than \$30,000** will be sent directly to assessment pursuant to Part 8 of Order 63 - Alternate Assessment Procedure (Supreme Court (General Civil Procedure) Rules 2015). The applicant will be required to advise the respondent of the proposed assessment of the bill at the time the Summons and bill of costs are served.

The applicant will be given details of the assessment procedure in the same terms as the current assessment notice used by the Costs Court when the matter is listed for assessment. The applicant must include this information when serving the Summons and Bill of Costs. All bills of costs must be filed and served with copies of any disbursement invoice claimed together with a certification of payment of the disbursements or an undertaking in accordance with Order 63.43(2)(b) to pay the disbursements after assessment. The applicant must file an affidavit of service 3 days before the date listed for assessment.

- **All Bills of costs of over \$30,000** will be listed for a case conference or Mediation approximately 6 weeks after filing.
  - **Bills of costs of between \$30,000 and \$50,000** will be listed for a case conference of 1 hour.
  - **Bills of costs of between \$50,000 and \$250,000** will be listed for a case conference of 1 and a half hours.
  - **Bills of costs in excess of \$250,000** will be listed for a mediation of 2-3 hours. All summonses will be listed for case conference or mediation by the Registry at the time of filing of the Summons for Taxation and the bill of costs.

The applicant is required to provide the respondent with the listing details and the requirement to serve a Notice of Objections when the Summons and bill of costs are served.

The Notice of Objections must be filed and served by the **respondent at least 7 days prior to the case conference or mediation**. If the matter is not resolved, the Registrar may list it for taxation for one or more days on the next available date or dates.

#### Points of contact

- **For assessment, case conference and mediation listing**, parties should contact the Principal Registry via  
Email: [costs.court@supremecourt.vic.gov.au](mailto:costs.court@supremecourt.vic.gov.au)  
Phone: +61 (03) 9603 9393
- **Where a matter settles or the case conference or mediation is no longer required**, the solicitor for the applicant must notify the court immediately, via  
Email: [costs.court@supremecourt.vic.gov.au](mailto:costs.court@supremecourt.vic.gov.au)  
Phone: +61 (03) 9603 9324 Facsimile: +61 (03) 9603 9320  
Consent minutes must be sent in an editable Word format to [costs.court@supremecourt.vic.gov.au](mailto:costs.court@supremecourt.vic.gov.au) as soon as practicable prior to the hearing and preferably no later than **4pm the day before the hearing**.
- **Note: Contact details for Solicitor and client costs disputes**, and any other matters deemed appropriate for Callover, remain unchanged. After issue of the proceeding the point of contact for these matters will be the Associate to Associate Justice Wood via  
Email: [wood.associate@supremecourt.vic.gov.au](mailto:wood.associate@supremecourt.vic.gov.au)  
Phone: +61 (03) 9603 9324 Facsimile: +61 (03) 9603 9320

### 3. Costs Court Party Party Taxation Information Form

When filing a Summons in the Costs Court, the practitioner for the applicant **is required** to provide information on the form annexed to this notice. The completed form must accompany the Summons and bill of costs. The form will be placed on the court file and a copy must be served on all parties by the applicant.

**The Summons for Taxation will not be issued without the completed form.**

The information required to be provided includes:

***Estimated time required for taxation hearing*** - If possible, this should be by agreement between parties. The Costs Court should be notified as soon as practicable in the event of a revised estimate. Where the hearing is likely to exceed three hours in length this should be included in the form details.

***Summary of proceeding*** - Provide a short summary of the nature of the proceeding resulting in the entitlement to payment of costs, including details of the court order or agreement and the amount of costs and disbursements claimed. If the applicant is of the view that it is desirable for the matter to be listed at a Callover, the applicant must provide reasons why, e.g. the respondent is likely to be self represented or directions are required.

***Whether the application is contested/unopposed/ex parte/by consent*** – In any matter if orders are sought by consent, signed minutes should be provided to the court at some time before the hearing date. Where signed consent minutes of order are sent (usually in PDF), an editable version should also be sent either in rich text or Word (editable) format to:

[costs.court@supremecourt.vic.gov.au](mailto:costs.court@supremecourt.vic.gov.au) and to the Associate to Associate Justice Wood: [wood.associate@supremecourt.vic.gov.au](mailto:wood.associate@supremecourt.vic.gov.au), as soon as practicable before the hearing. A return email address is also required.

### 4. Applications by Solicitor for costs pursuant to s134AB(31) of the *Accident Compensation Act 1985* or s344(7) of the *Workplace Injury Rehabilitation and Compensation Act 2013*, following resolution or judgement in a damages proceeding.

If, after a solicitor seeking costs pursuant to s 134AB(31) of the *Accident Compensation Act 1985* has complied with County Court Practice Note PNCLD 2-2016, a County Court Judge elects to refer the claim for costs to the Costs Court for review, the following steps would apply:

- The Judge makes an order:
  - (a) referring the application for costs to the Costs Court for review; and
  - (b) that the solicitor files a Summons for Taxation seeking a review of the costs
- The solicitor files a Summons for Taxation of costs seeking a review pursuant to the Judge's order and the fee on summons is paid (refer to the Prothonotary's fees on the web page:  
<http://www.supremecourt.vic.gov.au/home/forms+fees+and+services/fees/prothonotary+fees>). A Costs Court file is then created.

- With the Summons the solicitor files a copy of the referral order and copies of the affidavits filed in the County Court in accordance with County Court interim practice note PNCI 1-2015.
- The matter will be referred to assessment by a costs registrar or judicial registrar pursuant to *Part 8 of Order 63- Alternate Assessment Procedure*.
- Upon completion of the assessment the County Court Judge and the applicant will be advised of the review result. If the applicant does not object to the assessment then the Judge will further consider the application and/or make an order pursuant to s 31 of the *Accident Compensation Act 1985*.

If the applicant informs the Judge of an objection to the review result an order may be made by the Judge refusing the application. The applicant can then apply to the Costs Court for the costs to be assessed pursuant to s3.4.38 of the *Legal Profession Act 2004*.

## 5. Guide to Discretionary items in the bill of costs

With inter-partes bills of costs, taxing officers apply the standard basis to all claims that costs are reasonably incurred and of a reasonable amount, including any claims for items referred to in this guide and any disbursement claims

The Supreme Court scale of costs is found at Appendix A of the *Supreme Court (General Civil Procedure) Rules 2015* and is the scale of costs applied for taxation of inter-partes costs in Supreme Court matters. Awards of costs on the County Court scale are allowed at eighty percent of the Supreme Court scale. County Court scale awards are made by the County Court and generally by VCAT. The Magistrates' Court scale applies to Magistrates' Court costs orders. The jurisdictional scale of costs applies to the costs of taxation in accordance with Order 63.36.

In relation to the Supreme Court scale, items 4 and 17 include a discretion to the Costs Court in relation to amounts to be allowed. Where the County Court scale is applied (i.e. at eighty percent of the Supreme Court scale), the allowances to Item 4 may be reduced to eighty percent of the guideline amount. The information set out in the table below provides a guide about how those discretions are commonly exercised.

Scale item 4 provides that reproduction by photocopy or other machine made copy including hard copies of electronic documents shall be at the discretion of the Costs Court.

As a guide, the Costs Court may allow Scale item 4 claims on the following basis—	for each printed side of a page 0.25 cents
Where there is large or bulk copying the rate allowed may be lower than 0.25 c per page.	
If printed out of the office, the amount charged by the service provider must be claimed as a disbursement and will be allowed if reasonable.	
Item 17 Care, skill and attention The Costs Court will consider the matters set out in Rule 63.38 and item 17 including work already allowed, research, (item 13) and allowances made for Counsel	A percentage of the amount allowed in the bill of costs is commonly within the range of 0 – 15%

# COSTS COURT– Party Party Taxation Information Form



<b>Hearing Return Date</b> (Court Use Only)			
<b>Proceeding number:</b>			
<b>Estimated time required for taxation hearing:</b>			
<b>Summary of Order for taxation or agreement</b> Provide a short summary of the Order or agreement or Rule that establishes the entitlement for costs.			
<b>A Short Summary of the principal litigation or Austlii reference to the decision of the Court</b>			
<b>Who is bringing the application?</b> Party type and name of party.			
<b>Amount of costs claimed</b> The amount of professional charges and disbursements claimed in the bill of costs	<b>Professional charges</b> \$	<b>Disbursements</b> \$	<b>Total</b> \$
<b>Any reason why the matter should be referred to a Callover – i.e. Self-represented Litigant as applicant or respondent.</b> <b>Any other relevant matter.</b>			
<b>Whether the matter likely to be Opposed / Unopposed / Ex-Parte / or by Consent?</b>			
<b>Details of Respondent's legal practitioner if known</b>			
<b>Applicant's Firm name:</b>			
<b>Practitioner with conduct:</b>			
<b>Costs Lawyer or Consultant who drew the bill</b>			
<b>Direct telephone number:</b>			
<b>Email address:</b>			
<b>Unavailable hearing date/s (if any):</b> List any dates within two months of the filing date that the filing party is <b>not</b> available			
<b>Date and signature</b>			