

Legal Affairs

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Keddies hit for overcharging

Samantha Bowers

Troubled law firm Keddies has been ordered to pay more than \$40,000 in damages for overcharging a former client – a move the opposing lawyers say has big implications for dozens of similar claims against the firm.

NSW District Court judge James Curtis awarded Eileen Liu \$27,973 plus interest this week – the full amount she claimed Keddies had overcharged her to run a car accident compensation claim in 2005.

Keddies, which was bought by listed firm Slater & Gordon in January, had charged Ms Liu for work it had not done and in some cases charged work done by a secretary at a higher partner rate, in breach of its costs agreement, the judge found.

Examples of overcharging included a three-line letter Judge Curtis held could be read in a “momentary glance”, but which cost Ms Liu \$87 for 12 minutes’ work by a senior lawyer. She also paid \$435 for a senior lawyer to draft a pro forma costs agreement the judge found should have cost \$18 because it only required her name to be typed in.

The “most blatant” example of overcharging was a charge of \$130.50 for reading an abbreviation of the word “received” in reply to an email Keddies had already charged for, Judge Curtis found. The examples in the judgment were “not exhaustive”, and many of the entries in Keddies’ fee ledger caused “disquiet”, he said.

Ms Liu’s lawyer, Firths principal Stephen Firth, said he was pleased with the result for his client, but “it’s a very dark day when practitioners are found to have engaged in that sort of conduct”.

The case highlighted that the hourly billing method – still the most common form of billing in law firms – “is entirely dependent on the honesty of the solicitor”, he said.

Over the top

Examples of overcharging by law firm Keddies in client Eileen Liu’s case

What Keddies charged	What was wrong
\$36 for welcome letter	→ Required no more than entry of name and address
\$87 for reading a three-line letter	→ Only needed “momentary glance”
\$435 for senior lawyer to draft pro forma costs agreement	→ Admin assistant could have done for \$18, only needed entry of Ms Liu’s name
\$92 for “perusing” letter and attachment, another \$92 for “considering” it	→ Both “may be read in less than 30 seconds”
\$108 for perusing and considering email and writing to client	→ Both just advised of client’s medical appointment
\$130 for “perusing” one-word reply acknowledging receipt of email	→ Charged for 18 mins – the same amount already charged to send original email

SOURCE: JUDGE JAMES CURTIS IN LUI V KEDDIES, NOV 8, 2011. DISTRICT COURT OF NSW

Firths is running about 100 overcharging claims against Keddies, which specialises in compensation and says on its website it is “particularly sensitive to the needs of clients”. Slater & Gordon managing director Andrew Grech said last year the firm had done “extensive due diligence” on Keddies before buying it, and had contractually “quarantined” itself from claims made against Keddies. Slater paid \$30 million for Keddies in January, and Keddies partners Russell Keddie, Scott Roulstone and Tony Barakat are now employed by Slater.

In June, the court held Keddies had overcharged a former client, the late Stavre Bazdarov, by \$160,000. Keddies is appealing.

Ms Liu said this week she was happy with the outcome in her case and to “fully finish” the matter. Her original accident occurred in 2001.

Keddies’ partners said this week through their lawyer they were disappointed with the judge’s findings, particularly as they believed they

had reached a settlement with Ms Liu. They were considering the judgment and “what further action they might take”, the lawyer said.

Judge Curtis found Ms Liu had executed a deed in 2007, expressed to be a release between Keddies and Ms Liu over a dispute, but there was no evidence of the circumstances in which it was executed and “no evidence of any accord with the partners”, who were not parties to it.

Mr Firth said the decision was significant because “the overwhelming majority of the cases I have against Keddies fall into the same general facts as Liu”.

The case is the latest in an ongoing stoush between the firms. Keddies is suing Firths to prevent it using information it says is confidential to contact former clients.

In September, Firths asked the District Court to refer Keddies to legal regulators for allegedly breaching ethical duties. Firths claimed Keddies partner Tony Barakat had



ANDREW GRECH Slater & Gordon managing director

TONY BARAKAT former Keddies partner, now employed by Slater & Gordon

Emissions up as flights take off

Alex Boxsell

A rise in business air travel is being blamed for an increase in emissions for a group of law firms that publicly report on the environmental impact of their businesses.

The Australian Legal Sector Alliance (AusLSA) released its second annual report yesterday, used to set a benchmark for the emissions produced by firms each year. It came in the same week a carbon tax was finally passed into law.

Emissions of carbon dioxide equivalent rose by 9.3 per cent, from 25,633 tonnes in 2009-10 to 28,021 tonnes in 2010-11 across eight firms that voluntarily reported their data to AusLSA in both years it has operated. Those firms – Clayton Utz, DLA Phillips Fox, Henry Davis York (HDY), Jackson McDonald, Maddocks, McCullough Robertson, Norton Rose and Swaab Attorneys – took steps to reduce their environmental impact over the period by cutting electricity and paper use, and workplace waste.

But total emissions rose despite their efforts, due to a spike in air travel in 2010-11. Staff numbers also increased across the firms, from a total of 5411 to 5537.

AusLSA general manager Emily Wilson said the rise in emissions came as “business travel was returning to pre-GFC levels”. Of the eight firms, only McCullough Robertson cut the share of emissions caused by flights over the period.

Global firms experienced the biggest increase in air travel. DLA Piper had 1557 flights in 2009-10, rising to 2354 in 2010-11, when flights made up 43 per cent of total emissions. The number of flights at Norton Rose rose from 1596 to 3027, or 46 per cent of the total.

HDY, which opened its first Brisbane office in the year, experienced a rise in the number of flights from 263 to 533. But Clayton Utz, Swaab, Maddocks and Jackson McDonald had only a minor increase in flights.

While some firms had invested in lifelike video-conferencing systems, it was unlikely they would replace air travel, Ms Wilson said, as lawyers and clients still viewed face-to-face meetings as vital.

AusLSA co-chairmen Kelvin O’Connor and David Rennick said travel was the greatest challenge “but closer analysis reveals an overall reduction in electricity consumption and significant reductions in paper consumption”. AusLSA has been building its member base, which is now 28. In the 2010-11 report, 15 firms reported their emissions data. Electricity use made up two-thirds of all emissions for the group of 15.

Allens to set up shop in Mongolia

Alex Boxsell

Allens Arthur Robinson will become the first Australian firm to set up in Mongolia when it opens an office in the capital Ulan Bator today to pursue work flowing from the country’s energy and resources boom.

It will use the office to service resources clients such as Rio Tinto, which is involved in the joint venture Oyu Tolgoi project, the largest undeveloped copper and gold mine in the world.

The firm has had a lawyer seconded in Ulan Bator for the project. Allens partner Erin Feros said the firm decided the office was needed

at their listing rules, understanding that, as a functioning democracy, they need to be able to attract and maintain foreign investors.”

Although Allens will be the first Australian firm to set up in Mongolia, it is not the first foreign firm there.

Global firm DLA Piper signed an agreement with C&G Partners in March, while Hogan Lovells has an association with GfS Advocates.

US firm Lynch & Mahoney is also prominent in the market, as is Chinese firm Lehman, Lee & Xu.

Allens will not have permanent staff in Mongolia but will rotate lawyers from Australian and foreign offices as the need arises.

Its gross domestic product growth is forecast to be 8.2 per cent this year and 20 per cent by 2013.

The nation was seeking to offer “an open mind in relation to the standards and criteria that internationalists would actually want for an

The firm decided the office was needed after it realised 12 senior lawyers had been to Mongolia in recent weeks.

investment decision”, Ms Feros said.

“They are rewriting their securities laws, the mining laws, looking

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