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**r o b b i n s**  
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S O L I C I T O R S

## **FUNERAL & ESTATE ADMINISTRATION EXPENSES: *Foster v Takai* [2016] QDC 329, delivered *ex tempore* on 01.12.2016**

Less so these days, but I still encounter clients with a strange view as to who is responsible for estate administration expenses. Some have the view that the solicitor's fees and all other estate administration expenses are paid by the estate. When faced with that, I very gently explain, it is the person who incurs the expense, who is responsible. However, they may claim those expenses from the estate. It is a fine distinction but a necessary one. It focuses the client's attention on what constitutes a reasonable estate administration expense. Such issues were recently canvassed in *Foster v Takai*.

The matter addressed a claim for wrongful distribution of trust property. The Administrator's defence involved her claiming parts of the estate distribution were properly incurred as she was entitled to claim estate administration expenses. Some of those expenses included: airfares, accommodation and transport for relatives to attend the funeral, contributions to the deceased's sibling, nieces and nephews, costs of well-being (health issues due to stress) costs of gravesite maintenance, hardship costs etc. The full claim was \$223,750.00. After various concessions and mathematical recalculations, the amount was reduced by \$38,886.04, which included funeral expenses allowed at \$20,500. In respect of Funeral expenses his Honour Morzone J affirmed at [19]-[24] the principles applied to claims for funeral expenses in Qld.

Ultimately the court found the administrator had made wrongful distributions and made orders as to the amount plus interest.

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