



**CILEX Level 6 Single Subject Certificate/CILEX Level 6 Professional Higher  
Diploma in Law and Practice/CILEX Level 6 Graduate Fast-Track Diploma**

**Unit 15 – Civil Litigation**

**Case study materials**

**January 2024**

**Information for candidates**

- You should familiarise yourself with these case study materials before the examination, taking time to consider the themes raised in the materials.
- You should consider the way in which your knowledge and understanding relate to these materials.
- In the examination, you will be presented with a set of questions which will relate to these materials.
- You may discuss these materials with your tutor(s).

**Instructions and information to candidates during the examination**

- You are allowed to take your own clean/unannotated copy of this document into the examination. Alternatively, you can access the electronic version of this document in the examination.
- You are **not** allowed access to any statute books in the examination.
- You must comply with the CILEX Exam Regulations – Online Exams at Accredited Centres/CILEX Exam Regulations – Online Exams with Remote Invigilation.

***Turn over***

## **CASE STUDY MATERIALS**

### **GUIDANCE FOR CANDIDATES STUDYING FOR THE LEVEL 6 UNIT 15 CIVIL LITIGATION EXAMINATIONS**

Candidates studying for Level 6 Unit 15 Civil Litigation are advised that when revising for this unit, they should have knowledge and understanding of the Civil Procedure Rules and of the rules of professional conduct for lawyers issued by the regulatory bodies for CILEX and by the SRA. Candidates are advised that they should be fully familiar with the relevant current unit specification and may be tested on any aspect of it. Where Civil Procedure Rules are given in the specification, candidates are expected to be broadly familiar with the content of those rules and their practical application, over and above familiarity with the relevant current specification, including the rules of professional conduct. Listed below are the Statutes, Standards and Regulations, and Civil Procedure Rules that candidates may find particularly relevant to this examination.

Senior Courts Act 1981

Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013

SRA Standards and Regulations

Civil Procedure Rules and Practice Directions

Part 1 Practice Direction and Pre-Action Conduct and Protocols

Part 3

Part 6

Part 7

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## **CASE STUDY MATERIALS**

### **ADVANCE INSTRUCTIONS TO CANDIDATES**

You are a trainee lawyer in the firm of Kempstons LLP ('Kempstons') of The Manor House, Bedford, MK42 7AB. You work in the civil litigation team and your supervising partner is Shirley Parreira.

Your local County Court Hearing Centre is in Bedford.

You are assisting Shirley Parreira in the following cases.

#### **1. Breakout Foods Ltd.**

These are new instructions from a new client. They relate to a dispute concerning the supply of an allegedly defective food van. **DOCUMENT 1** provides the relevant information.

#### **2. Jenny Hathaway**

Kempstons act for this client in relation to a claim for personal injuries arising out of a road traffic accident. Liability has been denied and proceedings have been commenced, which are proceeding in the multi-track. The date fixed for exchange of witness statements is approaching.

Jenny Hathaway was a cyclist who was struck from behind by the defendant driving a Mini motorcar. The claimant's case is that she was in the cycle lane at all times. The defendant alleges that she, Jenny, suddenly veered out of the cycle lane into his path and that he could not avoid colliding with her. There is, so far as enquiries have elicited, one independent eyewitness, Emma Franklin.

**DOCUMENT 2** is an attendance note summarising what Emma has told you.

#### **3. Seema Malhotra**

These are also new instructions although the client's grandfather, Javagal Malhotra, is an established client who owns a large number of buy-to-let properties. The client has unfortunately suffered serious injury in an accident on a ride at a funfair. **DOCUMENTS 3, 4 and 5** provide the relevant information.

**MEMORANDUM**

From: Shirley Parreira

To: Trainee Lawyer

31 October 2023

**Breakout Foods Ltd (Matter SP 25/2023/281)**

These are new instructions. I am dealing with KYC and AML requirements. I may need your assistance at various times so please familiarise yourself with the file.

By way of summary, here are the key points.

Breakout Foods Ltd has been operating a street-food business since 2019. There are two directors, Raquel Cornwall and Jamaal Haynes, who between them own all the shares in the company. They are old friends from university who shared an interest in Caribbean cuisine, which they initially pursued as a hobby but it has now become a substantial business in its own right.

In 2022, Breakout Foods Ltd participated in a number of street-food events across the Midlands, ran a number of pop-up restaurants and rented pitches at a number of festivals and other public events. It also did the catering for a number of weddings and other special occasions for particular groups. In order to expand their capacity for 2023, the directors decided to invest the profit that had been accumulating from these activities into acquiring a specialised vehicle to enable the company to prepare and serve food more efficiently at these various venues.

In March 2023, Jamaal Haynes on behalf of Breakout Foods Ltd, entered into an agreement with Stratford Summers, a director of Magnetic Motors Ltd, to purchase a food van. The van had previously been used as a burger van and as part of the transaction it was agreed that Magnetic Motors Ltd would replace the existing griddle and hotplate with a unit that allowed for preparation of the stews, curries and other dishes that were the basis of Breakout Foods Ltd's offering. The purchase price was £16,000.

Somewhat surprisingly, this agreement was entirely oral but Jamaal Haynes explained that he had known Stratford Summers for a number of years and had done business with him on several occasions, so he was comfortable with this. To the best of his recollection, the agreement was actually made on 14 or 15 March and the van was delivered on or about 18 April.

The first event at which the van was intended to be used was a May-day weekend festival in Northampton. This was a two-day event and on the first day the van was inspected by local authority food hygiene inspectors. They identified that the unit that had been installed was not achieving the intended temperatures either for cooking food or for storing cooked products and as a result Breakout Foods Ltd had to stop trading. The total losses were £4500, including loss of profit and the value of food that had to be thrown away or sold at a loss to other food vendors.

A specialist engineer's report stated that the unit provided was fundamentally unsuitable as it did not have the power to operate all its elements at the same time.

Jamaal Haynes contacted Stratford Summers but Stratford basically refused to discuss the issue, saying that Breakout Foods Ltd wanted a van with a particular type of catering unit and he provided this, using a subcontractor, Clockwell Autoservices Ltd, to fit the unit and if there was anything wrong then it was nothing to do with him.

## **CASE STUDY MATERIALS**

Breakout Foods Ltd managed to source an alternative catering unit for installation in the van and this was installed ready to operate by the middle of June 2023 at a cost of £4950, including the cost of installation.

In the meantime, Breakout Foods Ltd was unable to participate in a three-day spring bank holiday festival in Leicester, which they had booked as the site licence specified that it must operate from a catering van and it could not borrow or rent one for the occasion. The site licence fee of £250 per day was not refundable. The anticipated profit for this event was £2250.

On two Saturdays in May, Breakout Foods Ltd had two bookings on each day for weddings and/or community events. It was possible to fulfil only one of these bookings on each day in the absence of the facilities provided by the van. In each case, the loss of profit by cancelling one event was £1000.

**ATTENDANCE NOTE RELATING TO EMMA FRANKLIN**

Emma Franklin has informed me that she can assist in relation to the claim being pursued by Jenny Hathaway and I have made the following note of what she told me.

On Wednesday 9 November 2022 at approximately 5:45 pm, Emma Franklin was walking along Hucknall Road downhill towards Valley Road. She was on the pavement on the right-hand side of the road on the opposite side of the road to the City Hospital. Immediately to her left was the new cycle lane, which was put in last year, and then the lane of traffic coming uphill towards her. She had been to her mother's house on Heathfield Road to collect her daughter as her mother had been looking after her while Emma was at work earlier that day. She was wheeling the buggy with her daughter in it. She glanced to her left and saw a cyclist riding towards her in the cycle lane. The cyclist was going quite slowly because of the slope but was going in a straight line and not going out of the cycle lane at all. Behind her, Emma saw a white van stationary and indicating to turn right into the hospital. Then a red Mini came up behind the van, put its left-hand indicator on and passed the van on the nearside. The driver then accelerated very sharply and continued close to the nearside and hit the cyclist from behind. When the cyclist was thrown into the air, Emma saw it was a woman when she landed very heavily on the pavement. Emma then dialled 999 to inform police and ambulance since it was clear that the cyclist was badly hurt. In Emma's view, the accident was clearly caused by the driver of the Mini passing the stationary van on the nearside when it was not safe to do so and failing to take any account of the presence of the cyclist. The cyclist did absolutely nothing wrong.

**FILE NOTE RE SEEMA MALHOTRA**

Seema Malhotra is aged 11. Her date of birth is 20 February 2012.

On 25 June 2022, Seema went to a funfair at Castle Park, Beeston, operated by Chatterley Bros Ltd, whose registered office is Funtime House, Berry Brow, Beeston, BE3 7GG. She was accompanied and supervised by her sister, Radha, aged 15. The two girls decided they wanted to go on a ride called the 'Paratrooper'. The ride consists of a series of separate cars, each holding up to four people, which are attached to arms radiating from a central pillar containing the drive mechanism. When the ride is in motion, the cars revolve at an increasingly fast speed while also moving up and down rapidly, creating the illusion of a parachute jump. Passengers are secured in the car by a security bar, which is bolted and secured by the ride operator. Seema and Radha were alone in a car. As the ride's speed increased, Seema started to slip from the seat under the security bar. Radha started to scream but the ride is accompanied by loud music and her screams were not heard. Seema slipped until she was half out of the car and remained in this position for a short while as the ride continued to operate. She was clinging to the security bar but lost her grip and fell from the car, landing on the concrete surface of the park a short way away from the Paratrooper ride. At this point, the ride operator appeared to become aware of the situation and the ride was stopped. An ambulance was called and Seema was taken to the A&E department of Beeston Royal infirmary, suffering from multiple serious injuries.

Initial preliminary estimates put the value of the claim significantly in excess of £200,000. There will be very substantial and ongoing rehabilitation requirements, including specialised physiotherapy, significant ongoing costs of providing suitably adapted living accommodation and means of transport. There will also be a significant claim in respect of loss of earning capacity, in addition to a claim for damages for pain and suffering, and loss of amenity.



**SUMMARY OF A MEDICAL REPORT PREPARED BY HARMANPREET JOHAL MB BS FRCS (ENG),  
CONSULTANT PAEDIATRIC ORTHOPAEDIC SURGEON, BEESTON ROYAL INFIRMARY**

This report concerns Seema Malhotra (DOB 20/2/12). This 10-year-old girl was involved in an accident at a funfair on 25 June 2022. It is reported that she was thrown from a ride, landing on the concrete floor surface after falling some 25 feet.

Initial steps to stabilise her condition had been taken by paramedics at the scene and while being transported to Beeston Royal Infirmary. On initial examination, she was suffering from a comminuted (open) fracture of both the tibia and fibula of her left leg, with involvement of the ankle joint and a complex fracture dislocation of the left shoulder joint involving the scapula, clavicle and upper humerus. She was also suffering from a number of other contusions and abrasions, including a marked external haematoma in the left parietal region. A CT scan (reported at 00:15 on 26 June 2022) identified a large extra-dural haematoma overlying the left temporal lobe and inferior parietal lobe with a marked midline shift. Seema was intubated and ventilated. She was transferred to the operating theatre at 00.30 under the care of the neurosurgical team and underwent an operation for the evacuation of the haematoma.

Subsequently, steps were taken to reduce the two major fractures. In summary, the various joints were stabilised and where necessary titanium screws were used to fix the tibia and fibula. The extent of damage to the tibia and fibula was such that initially, an external metal framework needed to be established to ensure proper alignment of the bones.

At review at six months, the injuries to the shoulder appear to have largely resolved, with some limitation of rotational movement in the shoulder joint and a significant risk of the subsequent development of osteoarthritis. The tibia and fibula have united well but the left leg is now significantly (c. 3 cm) shorter than the right, which results in a significant limp and awkwardness in gait. It is unlikely that this can be remedied in future. There is also a significant risk of osteoarthritis in the ankle.

The neurological position is not yet entirely clear and will require a further report from an appropriately qualified source in due course but it appears clear that there is a moderate degree of left sided hemiplegia, which affects mobility and dexterity. It is not clear whether there is any cognitive deficit.

The patient continues to undergo intensive physiotherapy in relation to all her injuries and will benefit from this being continued.

Unfortunately, it appears to be the case that this young girl has suffered injuries that will result in permanent physical disability and will require significant adjustments to be made for the future, as she has significant limitations with regard to the use of her left limbs in particular. She is unlikely to be able to drive a motor car without adjustments to allow it to be operated exclusively by the right leg and arm and it is likely that she will require domestic adjustments, in particular in the kitchen. She is also likely to benefit from a modified bathroom with facilities for a seated shower. These aspects should be further investigated by an appropriately qualified occupational health professional.

**[EXTRACT FROM THE FINDINGS OF A HEALTH AND SAFETY EXECUTIVE INVESTIGATION FOLLOWING A RIDDOR REPORT OF AN ACCIDENT INVOLVING NON-FATAL INJURY TO A NON-WORKER.]**

Chatterley Bros Ltd submitted a RIDDOR report in relation to an incident on 25 June 2022 involving the Paratrooper ride at their fairground at Castle Park Beeston. A 10-year-old child slipped between the safety bar and the seat of the car in which she was riding and subsequently fell to the ground, sustaining multiple injuries. The child was then transported to hospital, giving rise to the requirement for a RIDDOR report.

The Paratrooper ride had been inspected in August 2021 and was therefore currently licensed with a valid inspection certificate within the preceding 12 months. Examination of the Paratrooper ride as a whole and of the car involved in the accident, disclosed that the ride was in good operational working order. The speed of the ride and the ride characteristics were in accordance with its design parameters. The safety bar on the car in question was in good working order and correctly located. There was therefore nothing to indicate that there was any mechanical deficiency or failing that led to the accident.

The Paratrooper ride is designed for a rider with a height of not less than 150 cm. Access to the ride is via a queueing system to the pay desk and holding area. There is a sign at the entrance to the queue with the painted outline of a child 150 cm tall and a sign stating: 'You must be at least this tall to ride.' There is a similar sign on the front of the pay desk. Enquiries revealed that the child involved in this accident was 133 cm tall, which is slightly below average height for a 10-year-old girl, and that she was very slightly built. The cashier and ride operator were asked whether they had noticed that the girl in question was significantly under the permitted height. Both stated that they had not noticed anything untoward. The ride operator also stated that he had not seen anything to indicate that a passenger was in difficulties until he saw a body flying through the air, at which point he immediately brought the ride to an emergency standstill.

**End of the case study materials**

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