



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

Question paper

January 2025

Time allowed: 3 hours and 15 minutes (includes 15 minutes reading time)

Instructions and information

- It is recommended that you take **fifteen** minutes to read through this question paper before you start answering the questions. However, if you wish to, you may start answering the questions immediately.
- You must answer **all** questions.
- This question paper is out of 100 marks.
- The marks for each question are shown — use this as a guide as to how much time to spend on each question.
- Write in full sentences — a yes or no answer will earn no marks.
- Full reasoning must be shown in your answers.
- Statutory authorities, decided cases and examples should be used where appropriate.
- You are allowed to use your own printed copy of the pre-release case study materials, as long as the materials are not annotated in any way. Alternatively, you can access the electronic version of the pre-release case study materials available in the examination.
- You are allowed to make notes on your scrap paper during the examination.
- A basic calculator is provided should you require the use of one.
- You are **not** allowed access to any statute books.
- You must comply with the CILEX Exam Regulations – Online Exams at Accredited Centres/CILEX Exam Regulations – Online Exams with Remote Invigilation.

Turn over

Answer ALL questions

Question 1

Reference: Question relates to Case 1 Aileen Forton and **Documents 1 and 2** of the case study materials.

(a) Explain the implications in relation to the proposed claim of:

- the Limitation Act 1980;
- the current age of the proposed claimant;
- the conviction and subsequent successful appeal in the criminal proceedings against Shane Wilkins; and
- the fact that Aileen Forton was not wearing a seatbelt.

(15 marks)

George Forton has checked with his insurance broker and has confirmed that none of his insurance policies would cover legal representation for Aileen to bring a claim. He is not a member of any organisation that will provide legal representation in the circumstances.

(b) Advise how a proposed claim could be funded and the implications of each funding method.

(6 marks)

Kempston's are instructed to pursue a claim. You obtain a medical report which is consistent with the information in **Document 1**. Bearing in mind the ongoing issues with facial scarring, you consider that the quantum on a full liability basis is in the bracket £35,000–£45,000.

(c) Explain the procedural requirements for the initial pre-action steps which should be taken by the proposed claimant and defendant.

(6 marks)

(Total: 27 marks)

Turn over

Question 2

Reference: Question relates to Case 1 Aileen Forton and **Documents 1 and 2** of the case study materials.

- (a) Draft an appropriate letter of claim based on the information in the Case Study Materials and this Question Paper.

(10 marks)

The solicitors acting for Shane Wilkins are not prepared to admit liability and have stated that their instructions are that the accident occurred because Joyce Forton had crossed the centreline and collided with Shane Wilkins when his vehicle was in the correct carriageway. You consider it appropriate to obtain a witness statement from Eric Clague, the independent eyewitness (see **Document 2**). Eric Clague confirms the correctness of the substance of his earlier statement to the police.

- (b) Explain what the form and substance of a witness statement for Eric Clague should be.

[DO NOT DRAFT THE STATEMENT]

(6 marks)

Proceedings have been commenced in the County Court. Directions have been given for the exchange of witness statements. The solicitors acting for Shane Wilkins serve on you and file at court what is, in fact, an early draft of a witness statement by Shane Wilkins. This contains the same factual content but does not contain any of the formal requirements, is not signed and does not contain a statement of truth. Two days after the deadline for exchange, they realise the error and serve the correct document.

- (c) Explain:
- the consequences resulting from this;
 - what action the defendant's solicitors should take; and
 - how Kempston's should respond.

(8 marks)

(Total: 24 marks)

Turn over

Question 3

Reference: Question relates to Case 2 Millgrave Ltd/Millicent Graves and **Documents 3 and 4** of the case study materials.

- (a) Explain:
- what track you would expect this case to be allocated to if proceedings were commenced;
 - the implications of this for the subsequent conduct of the proceedings; and
 - the directions you would expect to be made in relation to expert evidence.

(8 marks)

Negotiations continue to prove unsuccessful and you are instructed to commence proceedings.

- (b) Explain:
- the procedure for issue and service of the Claim Form; and
 - what information will be included in the Claim Form and Particulars of Claim.

[DO NOT DRAFT THE CLAIM FORM OR PARTICULARS OF CLAIM]

(12 marks)

The solicitors for the defendant duly acknowledge service and serve a defence denying liability and putting the claimant to proof as to quantum. At the same time, they make an offer of settlement, which complies with the procedural requirements of Part 36. The offer is about £10,000 less than your valuation of the claim but you advise your client that some elements of the claim cannot be absolutely quantified and the judge might take a different view.

- (c) Advise your client as to the implications of this offer and the consequences, including cost consequences, of accepting or rejecting it.

(8 marks)

(Total: 28 marks)

Question 4

Reference: Question relates to Case 3 Erica Cleaver trading as Newmarket Antique Centre.

Norman Franklin does not respond to any communications you send him and Erica Cleaver advises you that he appears to have ceased trading.

You commence proceedings, claiming damages limited to £20,000 and the Claim Form and supporting documents are served on Norman Franklin. No response is received from Norman Franklin.

- (a) Explain the step in proceedings that you will now undertake and the procedure for doing so.

(5 marks)

A week after you have taken this step, you receive a letter from solicitors instructed by Norman Franklin. They state that the claim form did not come to their client's attention as he was away from his home on an extended visit to his daughter, who lives abroad. They state that they are instructed to resist the claim on the basis that the shelf unit was of satisfactory quality and fit for purpose, having regard to the information given to Norman Franklin about the weight of the items that were to be displayed.

- (b) Explain the step in proceedings that the defendant could now take and the criteria which the court will apply in dealing with it.

(6 marks)

The application of the defendant is dismissed. His solicitors advise you that they propose to appeal.

- (c) Explain to Erica Cleaver what form the appeal will take and what criteria the appellate court will apply.

(5 marks)

In the event, the appeal is dismissed and you eventually obtain judgment for damages in the sum of £16,000, together with costs assessed at £2500. No proposal for payment is forthcoming from the defendant.

- (d) Explain how payment of these sums can be enforced.

(5 marks)

(Total: 21 marks)

End of the examination

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