



**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 2023

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.

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GUIDANCE FOR LEARNERS STUDYING FOR THE LEVEL 6 UNIT 15 CIVIL LITIGATION EXAMINATIONS

Learners 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 the SRA.

Learners 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, learners 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 Civil Procedure Rules which learners may find particularly relevant to this examination:

Law Reform (Miscellaneous Provisions) Act 1934

Fatal Accidents Act 1976

Senior Courts Act 1981

SRA Standards and Regulations

CPR

Part 1

Practice Direction 7A

Part 10

Part 15

Part 16

Practice Direction 16

Part 24

Part 25

Part 31

Part 36

Part 40

Part 44

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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 Zhao Ting. Your local County Court Hearing Centre is in Bedford.

You are assisting Zhao Ting in the following cases:

(1) The Southend Community Stadium Limited File
(File Ref: ZT/SCS/001/2295)

Kempstons is acting for Southend Community Stadium Limited with respect to a claim for breach of contract that it is taking against Leaver Dury Limited. Further information concerning this case can be obtained from the following case study materials:

DOCUMENT 1: Email from Zhao Ting to Trainee Lawyer

DOCUMENT 2: Letter from Johnny Greenhalgh to Zhao Ting

(2) The Padraig Quinn File
(File Ref : ZT/PQ/001/2314)

Kempstons is acting for Padraig Quinn with respect to a claim he is making against his employers, Rother Valley Steel. Mr Quinn was involved in an accident at work in June 2022 and suffered serious injuries as a result of the accident.

DOCUMENT 3: Attendance note of telephone conversation between Zhao Ting and Padraig Quinn

(3) The Inner Peace File
(File Ref: ZT/IP/001/2568)

Kempstons is acting for Orla Fortescue who runs a mindfulness and meditation centre called Inner Peace in Wimbledon. She is involved in a dispute with the owners of the shop next door which is called GRWM

DOCUMENT 4: Email from Orla Fortescue to Zhao Ting

DOCUMENT 5: Email from Orla Fortescue to Carlton Devereux

DOCUMENT 6: Email from Carlton Devereux to Orla Fortescue

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From: Zhao Ting (ZhaoT@Kempstons.co.uk)

Sent: 12th January 2023 14:26

To: Trainee Lawyer (Trainee@Kempstons.co.uk)

Subject: Southend Community Stadium Limited v Leaver Dury Limited (ZT/SCS/001/2295)

I'll need your help with this case where we are acting for Southend Community Stadium Limited ("SCS"). Our client is a company that won the contract with the local council to build and run a new community sports stadium in Southend after the announcement that it was to be granted city status. The new stadium was due to open in November 2022.

Although the stadium was primarily designed for sports facilities, the plan was that it would have the flexibility to host other events.

As part of the works, SCS contracted with Leaver Dury Limited (LDL) on 30th October 2021 to carry out all the electrical work on the stadium. A copy of the contract is on file. I have reviewed this and it essentially sets out the specifications for the work to be done, the date by which the work was to be completed and the price. There are no other clauses of note. **(Please note you will not be provided with a copy of the contract)**

In accordance with this contract, LDL installed most of the main wiring without difficulty during the first phase of the works. Their employees then came back on to the site in late June to help fit out the catering outlets and provide the main lighting for the stadium.

Work proceeded as normal until 6th July 2022 when a fire broke out in one of the snack bars. This spread quickly through the west of the stadium destroying a gym, dressing rooms and the snack bar.

After the incident, the Fire Brigade carried out an investigation into what had happened. In their report, they identified that the fire had been caused by loose wiring in the main circuit in the snack bar. LDL had been working on the snack bar on that day. Indeed, no other contractors had been authorised to work in that area until LDL had completed the job that they were doing.

After receiving the report from the Fire Brigade, Johnny Greenhalgh, who is the company secretary at SCS, instructed us to pursue LDL to recover the cost of repairing the damage to the stadium which came to £45,000. He also wanted us to seek the loss of profit that SCS had suffered as a result of the delay in opening the stadium. In particular, SCS had organised a gala Christmas concert at the stadium, featuring a number of famous singers, which it had to cancel. He estimated that the losses from this event alone would be £60,000.

We decided not to go down the statutory adjudication route and so I followed the necessary protocol. Unfortunately, LDL have not indicated a willingness to settle the claim. It has suggested that the fire was due to our client's failure to properly supervise the other contractors on site. LDL also disputes the level of the loss that our client is claiming. In particular, LDL says that as far as it was concerned this was just a sports stadium and no one knew about the concert as it hadn't been advertised at the time of the fire.

You'll see that I have taken instructions from Johnny Greenhalgh (**DOCUMENT 2**) and he has provided his confirmation in writing that we should now issue proceedings in this case. He has also provided further information about the arguments raised by LDL.

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It would be good experience for you to work on this case from now on. I know that you're dealing with another matter today but please can you familiarise yourself with the file. I'll let you know what I need you to do in due course.

Best wishes,

Zhao

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DOCUMENT 2

SOUTHEND COMMUNITY STADIUM LIMITED
Chalkwell Road, Southend-on-Sea, SS0 8NU

Kempstons LLP
The Manor House,
Bedford,
MK42 7AB.
10th January 2023

Your reference: ZT/SCS/001/2295

Dear Zhao,

Claim against Leaver Dury Limited

Thank you for your recent telephone call updating me on the case. I'm sorry to hear that Leaver Dury aren't willing to settle this matter but I'm not surprised as they always were quite difficult to deal with.

In terms of the points they've raised: firstly, on the issue of supervision, we have a system of permits as to who could work where on the site. This was strictly enforced by our site manager. I've checked our records and staff from Leaver Dury were the only people permitted to work in that area on the day of the fire.

As to the loss of profits from the gala concert, it is right to say that we had not advertised this at the time of the fire, but we were going to do so at the end of July. The headline act was Peter Fear whose recent UK tour sold out in minutes. We would therefore have had a full house. As it is, we had already obtained a special licence from the council to run the event.

I'm surprised that they raised this point as we advised Leaver Dury of the concert in the lead up to signing of the contract with them. They also knew that we had already agreed with Peter Fear that he should appear. His manager needed to approve all the publicity about the concert and we told everyone on site to keep this confidential until we announced it.

As it is, we were thinking of using this concert as a way of establishing the stadium as the major venue in Essex for such events. This would have substantially boosted the revenue of the stadium.

I'm happy to take your advice as to how we should proceed with this matter. I therefore confirm, on behalf of the company, that you have instructions to start court proceedings. As I have responsibility for legal matters within the company you should send any official documents to me to sign.

Yours sincerely,

Johnny Greenhalgh
Company Secretary

ATTENDANCE NOTE OF TELEPHONE CONVERSATION BETWEEN ZHAO TING AND PADRAIG QUINN

Attendance by: Zhao Ting ("ZT")
Client: Padraig Quinn ("PQ")
Matter: Claim against Rother Valley Steel ("RVS")
Date: 18th January 2023
Time in attendance: 30 minutes
Reference: ZT/PQ/001/2314

ZT attending on Padraig Quinn of 57 Brunswick Road, Rotherham, South Yorkshire, S60 1AF. He was involved in a serious accident whilst working for his former employer, Rother Valley Steel. The accident took place on 23rd June 2022.

At the time of the accident, PQ was working on one of the presses which was used to make components from a coil of steel. PQ was working on a large order which the company needed to complete for the customer by the end of the week. There was therefore some pressure to get the work done as quickly as possible. As a result, the foreman, Neil Carrera, removed one of the guards to the machine and disabled the stop button.

PQ's job was to feed the steel into the press. He was coming to the end of the shift when part of the coil got lodged in the press and stopped it operating. Apparently, this happened quite frequently due to imperfections in the steel. PQ pushed the coil towards the press in effort to move it. This dislodged the coil but also meant that PQ was drawn into the press as it started operating. PQ therefore suffered serious crushing injuries to his upper body.

PQ said that the accident would not have happened if Neil Carrera hadn't carried out the modifications to the press. In particular, the guard would have prevented PQ being drawn into the machine. He might also have been able to use the stop button to prevent the more serious injuries occurring. PQ says that two of his colleagues witnessed what happened and would be prepared to give evidence on his behalf.

PQ also indicated that, after the accident, he explained what Neil Carrera had done to the company's safety director. Apparently, the company always prepare reports on more serious accidents to ensure that they don't happen again. PQ hasn't been sent a copy of the report but understands that the safety director recommended that such modifications shouldn't be carried out to any of the presses.

After the accident, PQ was taken by air ambulance to the major trauma unit at the Northern General Hospital in Sheffield. He was kept in the unit for 15 days during which time he underwent a series of operations. He then stayed in the hospital for another three weeks.

PQ was still bed ridden when he was discharged from the hospital and was unable to do anything for himself. As a result, his wife had to give up her job to look after him. The couple have two children aged 14 and 12, who help when they can, but Mrs Quinn is the major carer. Mr Quinn's condition has not improved and indeed has deteriorated quite rapidly recently.

PQ indicated that financially things have also become very tight. After the accident, he received full pay from RVS for six months in accordance with their sick pay scheme. RVS has, however, medically retired him. He therefore now wishes to make a claim against the company. He is worried about how the family will survive as he was the major earner even before his wife gave up her job. They are receiving benefits but that is nowhere near his former income.

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As a result of his injuries, PQ is not able to come into the office, but ZT reassured him on this. She explained that the trainee lawyer will come out to take a full statement from him and run through all of the client care and funding information.

The trainee will also be able to pick up the documents that PQ has relating to the case including his wage slips and the correspondence relating to his medical retirement.

DOCUMENT 4

From: Orla Fortescue (Orla@InnerPeace.co.uk)

Sent: 16th January 2023 09:26

To: Zhao Ting (ZhaoT@Kempstons.co.uk)

Subject: GRWM

Status: High Importance

Dear Mrs Ting,

I was given your email address by one of my late husband's friends as I need some urgent advice concerning a dispute I am having with GRWM. This is the shop next door to Inner Peace, the mindfulness and meditation centre that I run in Wimbledon. GRWM are causing a lot of noise which is seriously affecting Inner Peace.

By way of background, I should say that I opened Inner Peace in July 2021 after the lockdown restrictions were finally lifted. I marketed the centre as a stress-free sanctuary that people could use to help improve their spiritual and mental health. There are various rooms in the centre for activities such as meditation and yoga. In general, it's a peaceful place where people can come to escape the pressures of their normal life.

I run the centre as a business but I try to keep the prices as low as possible as I want it to act as a resource for the local community. As a result, we had built up a loyal customer base and the centre was starting to really thrive. Indeed, I was giving some thought to expanding the range of activities that the centre could offer.

We started to hit problems, however, when GRWM opened up next door. Previously, we had a bookshop next to us which fitted well with the nature of our business. The owner of the bookshop retired just before Christmas and told me a clothes shop would be taking over from him. I didn't have problem with this as I couldn't see how this would affect what the centre was doing.

We closed the centre just before Christmas and reopened on the 4th January so that I could have a couple of days to get the centre up and running before the weekend which was normally our busiest time of the week. During the time that we were closed, I understand that GRWM carried out some refurbishment to the shop that they had taken over.

On the day that I went back in I looked into the window of GRWM when I went to open up the centre at about 8.30. The shop was closed but I saw that it seemed to be selling clothing for younger people. Again, I thought nothing of this.

The problems started at around 11.30 that day when I heard loud music coming from GRWM. I therefore went next door and asked if they could turn it down as my lunch time classes were due to start soon. The shop assistant was a bit rude to me and said that as the manager wasn't there, there was nothing they could do. They did, however, say that they would talk to them when they came in.

The music continued and I received a few complaints from people who attended the classes that day. I told them that I would see what I could do. Fortunately, this didn't affect the classes that evening as GRWM closed before 6.

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This situation continued for the next couple of days but each time I complained to the people at GRWM, I was told the manager wasn't in.

Matters really came to a head though over the weekend. On the Saturday, the music was particularly loud and the walls to the centre seemed to be shaking as a result of the volume of it. I went next door to complain and it seemed that they had put a DJ booth in the corner of the shop with extra large speakers. The shop was packed with people but eventually I found a member of staff who again told me the manager wasn't in but gave me an email address for him.

As a result of the noise, all of the classes at Inner Peace were affected. Indeed, I saw some people decide not to come in when they heard the music from next door.

At the end of the day, I therefore sent the attached email to the manager of GRWM (**Document 5**).

I received no response until the end of last week (**Document 6**). It was clear from the response I received that nothing was going to change and indeed matters were only going to get worse once GRWM extended their opening hours. I don't know why they can't just turn the music down or perhaps sound proof the shop. Surely, they can sell clothes without the need for such loud music?

As it is, I can already see the effect this is having on my customers. A number of recent classes have been cancelled and those that have gone ahead were poorly attended with people saying that the sanctuary that had been Inner Peace was now ruined for them.

I therefore need to do something urgently about this as otherwise the centre won't be able to continue to run. This is particularly upsetting for me as I set up the centre with some of the money my late husband left to me when he died in May 2020. I don't want his money to go to waste and the centre had really helped me emotionally recover from his death. I should say that I still have over £200,000 of the money that he left to me in my bank account and so I'm happy to pay whatever legal fees are necessary to resolve this matter.

I'd be grateful for any help you can give me with this case.

Best wishes,

Orla Fortescue

From: Orla Fortescue (Orla@InnerPeace.co.uk)

Sent: 7th January 2023 19:26

To: Carlton Devereux (Carlton@GRWM.co.uk)

Subject: Noise

Status: High Importance

Dear Carlton,

I am very worried about the noise that is coming from your shop in Wimbledon. I am the owner of Inner Peace which is the shop next to yours and my business is being badly affected by the loud music that is coming from your shop.

As you probably know Inner Peace is a mindfulness centre which is supposed to be a sanctuary for people from the stresses and strains of every day life. This is not possible if there is going to be constant loud music coming from your shop. Today was particularly bad as our walls seemed to be vibrating with the sheer volume of the music that was being played. This disrupted all of the classes that we had.

I have tried to talk to your staff about this without success. I am, however, still happy to discuss this with you further as I would like us to reach an amicable solution to this issue. Indeed, I have no objection to you playing music in your shop as long as it doesn't affect the centre.

Could you let me know a time when you could talk about this?

Best wishes,

Orla

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From: Carlton Devereux (Carlton@GRWM.co.uk)

Sent: 12th January 2023 19:26

To: Orla Fortescue (Orla@InnerPeace.co.uk)

Subject: Noise

Status: High Importance

Hi Orla,

Thanks for your message. I'm sorry not to get back to you before now but I've been super busy as we've got a couple of big events coming up at the shop.

As you know our shop is catering for young people and the music is a big part of creating an atmosphere which will draw them in. Last Saturday was a case in point as our sales went up as a result of the DJ event. In fact, we did so well that we're planning to have more of such events in the future. We will also be opening in the evening soon.

As it is, I can't see what your problem is. We're attracting a lot of the people to the area which had been a bit dead up until now. As it's not a residential area, people need a reason to come there and our shop means there is greater footfall from young people with more disposable income.

As a result, I don't see the point in us meeting to discuss this.

Carlton

End of the case study materials