



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 2023

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.
- 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 **Documents 1 and 2** of the case study materials.

The day after you receive the email from Zhao Ting, she asks you to prepare an initial draft of the documents needed to start court proceedings on behalf of Southend Community Stadium Limited.

- (a) Explain what you would include in the Particulars of Claim in this case.

[NOTE TO CANDIDATES: YOU SHOULD NOT DRAFT THE PARTICULARS OF CLAIM]

(15 marks)

You send the Particulars of Claim to Johnny Greenhalgh for him to approve and sign. He indicates that he is happy with what you have prepared but asks you to include a claim for loss of profits for other future concerts that SCS might have run.

Johnny accepts that SCS had no acts booked and would need to obtain the necessary licences from the council before staging such concerts. He nonetheless believes LDL should be made to pay for the disruption it caused.

- (b) Explain, with reference to the SRA Standards and Regulations and the Civil Procedure Rules, what your response would be to Johnny's request to add this fresh head of damages.

(10 marks)

You resolve the matter with Johnny concerning the fresh head of damages and so issue proceedings. In its defence, LDL maintains its argument that SCS failed to properly supervise its contractors. You take your client's instructions on this. Johnny explains that the foreman on the site made sure that only LDL employees worked in that snack bar on the day that the fire started as they were the only ones who had the necessary permits to work.

As a result, Johnny could not see any support for the argument that LDL had put forward and wondered if we could bring the matter to an end soon, as he felt SCS had such a strong case.

- (c) Explain what steps you could take to bring this matter to an early conclusion in the light of Johnny's comments.

(5 marks)

(Total: 30 marks)

Question 2

Reference: Question relates to **Document 3** of the case study materials.

You visit Mr Quinn at his home and take a full statement from him about his case, which you arrange for him to sign the day after your visit. You also interview the two witnesses. Zhao Ting then sends off the letter of claim to Rother Valley Steel.

A week after the letter is sent, you hear from Mr Quinn's wife that sadly he died the night before, as a result of the injuries he sustained. She indicates that her husband was determined that the company should be brought to account and so you should continue with the claim.

She also asks for advice about dealing with Mr Quinn's will, as she is executor. You refer her to Kempston's Probate department.

- (a) Explain what heads of damage can now be claimed, as Mr Quinn has died.

(13 marks)

You issue proceedings in the case. Rother Valley Steel defends the matter by arguing that Mr Quinn caused or contributed to the accident by pushing the steel into the press rather than stopping the machine.

The Court gives the necessary directions and you proceed to disclosure. A dispute arises over the report into the accident that was produced by Rother Valley Steel's safety director. The defendant concedes that the report was prepared to avoid future accidents, but it was also compiled in order to help prepare their defence to any claim. The defendant therefore argues that the report is privileged.

- (b) Explain the steps you would take and the arguments you would use to obtain a copy of the report.

(10 marks)

(Total: 23 marks)

Turn over

Question 3

Reference: Question relates to **Document 3** of the case study materials.

Shortly before exchange of witness statements, you receive a Part 36 offer from Rother Valley Steel, which includes a deduction of 20% for contributory negligence. You take Counsel's advice and in her view the offer is reasonable on quantum. However, she believes the deduction for contributory negligence is too high. She therefore advises that the offer be rejected.

(a) Advise your client as to the possible consequences of rejecting the Part 36 offer.

(12 marks)

You respond to the defendant concerning the Part 36 offer and enter into without prejudice negotiations in an attempt to settle the claim once witness statements have been exchanged. At the same time, you prepare your pre-trial checklist.

You advise your client of the date of the trial and she asks if the judge will be made aware of the Part 36 offer and the negotiations you are having. She feels this would be a point in her favour.

(b) Explain how you would respond to your client's question.

(6 marks)

You manage to reach an agreement to settle the case about a month before the trial is due to take place. In accordance with your client's instructions, this will be in the form of a single lump sum.

(c) Describe the contents of the consent order that you would prepare in light of the agreement you have reached.

(7 marks)

(Total: 25 marks)

Question 4

Reference: Question relates to **Documents 4, 5 and 6** of the case study materials.

- (a) Advise your client what interim application you would make in her case and the procedural steps you would take to make this application.

(6 marks)

- (b) Explain, with reference to relevant legal authority, the submissions you would make in support of this application.

(16 marks)

(Total: 22 marks)

End of the examination

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