



## THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

### UNIT 15 – CIVIL LITIGATION\*

**Time allowed: 3 hours plus 15 minutes' reading time**

#### **Instructions to Candidates**

- You have been provided with a clean copy of the case study materials for you to use in this examination.
- You have **FIFTEEN** minutes to read through this question paper and the case study materials before the start of the examination.
- **It is strongly recommended that you use the reading time to read this question paper fully.** However, you may make notes on this question paper or in your answer booklet during this time, if you wish.
- **All questions are compulsory. You must answer ALL the questions.**
- Write in full sentences – a yes or no answer will earn no marks.
- Candidates must comply with the CILEx Examination Regulations.
- Full reasoning must be shown in answers. Statutory authorities, decided cases and examples should be used where appropriate.

#### **Information for Candidates**

- The mark allocation for each question and part-question is given and you are advised to take this into account in planning your work.
- Write in blue or black ink or ballpoint pen.
- Attention should be paid to clear, neat handwriting and tidy alterations.
- Complete all rough work in your answer booklet. Cross through any work you do not want marked.

**Do not turn over this page until instructed by the Invigilator.**

\* This unit is a component of the following CILEx qualifications: **LEVEL 6 CERTIFICATE IN LAW, LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE** and the **LEVEL 6 DIPLOMA IN LEGAL PRACTICE**

## Question 1

Reference: Question relates to the **Advance Instructions to Candidates** and to **Documents 1–3** of the case study materials.

Ghulam Murtaza wants to recover the debt as soon as possible, so asks you to take court proceedings straightaway.

- (a) Describe the steps that should be taken by both parties under the relevant protocol before proceedings are commenced.

**(7 marks)**

You are unable to resolve the matter under the protocol and Ghulam Murtaza instructs you to start court proceedings. You therefore prepare the Claim Form.

- (b) Describe, with reference to the relevant authorities, the contents of the Particulars of Claim that you would include on page 2 of the Claim Form.

**[NOTE TO CANDIDATES: Do NOT draft the Particulars of Claim.]**

**(15 marks)**

Proceedings are served. In its defence, Anderson Construction Limited accepts that it is liable to make some payment but disputes the amount to be paid as there are defects with the digger. Following a court order, expert evidence is obtained, which concludes that in fact the digger is working normally.

- (c) Explain what interim application you could make on your client's behalf to bring the matter to an early conclusion.

**(6 marks)**

**(Total: 28 marks)**

## Question 2

Reference: Question relates to the **Advance Instructions to Candidates** and to **Documents 4 and 5** of the case study materials.

Proceedings are issued and the defence is received, which admits liability but disputes causation and quantum. The claim is allocated to the multi-track and the court gives the necessary directions. These include permission for the defendant to obtain its own medical evidence. You advise Mr Rostowski of this, and he writes to you asking for advice on his situation (**Document 5**).

- (a) Explain what interim application you would make to assist Mr Rostowski and the procedural steps you would take with respect to this application.

**(9 marks)**

- (b) Explain the substance of the evidence that you would have to file in support of your application above.

**(11 marks)**

**(Total: 20 marks)**

### Question 3

Reference: Question relates to the **Advance Instructions to Candidates** and to **Documents 4 and 5** of the case study materials.

The defendant receives its medical evidence, which does not fully support its defence, but indicates that the claimant would have experienced similar symptoms within five years. The defendant therefore makes a Part 36 offer of £35,000. Your assessment is that this would be reasonable, if the defendant's medical evidence were accepted. You decide, however, to advise the client to reject the offer, given the report from your own medical expert.

- (a) Advise your client on the potential costs consequences of the defendant's offer?

**(10 marks)**

Your client rejects the Part 36 offer, but you are able to settle the case and conclude it by means of a consent order. This provides that the defendant will pay your client's costs, but these will be subject to detailed assessment if not agreed. You calculate your costs at £25,000. After two months, you have not been able to reach an agreement on this figure with the defendant's solicitors, so wish to take the matter further.

- (b) Describe the procedure that would now be followed for the costs to be assessed.

**(12 marks)**

**(Total: 22 marks)**

#### Question 4

Reference: Question relates to the **Advance Instructions to Candidates** and to **Document 6** of the case study materials.

- (a) Explain, taking into account your instructions from Mr Yarmouth, how you might seek to resolve the matter without court proceedings.

**(8 marks)**

You are unable to resolve the dispute and TAL commences court proceedings against YPL. You file and serve a defence for YPL. This denies that the cutting machines were defective and that YPL is responsible for any loss suffered by TAL. The court then sends you a notice of proposed allocation.

- (b) Explain the steps that you would now take to deal with allocation of the case and the track to which this case would be allocated.

**(6 marks)**

The court gives permission for expert evidence to be obtained on the functioning of the cutting machines. The expert evidence concludes that there are no defects with the machines, but that they were not properly installed, as they had not been set to the right specification.

- (c) Explain what procedural steps you would take in light of the expert evidence.

**(7 marks)**

You take the necessary steps and the case proceeds to trial. About a month before trial, you get a telephone call from Nathaniel Yarmouth. He tells you that YPL was having some redecoration done at its offices, so was archiving a number of old files. Among these were the minutes of the regular meetings of the company's engineers. These revealed that a meeting took place in March 2021, where there had been some discussion about setting the specifications on the cutting machines that YPL supplied. This had revealed some problems with the machines, which could not be used successfully on certain types of metal.

Mr Yarmouth realises that this might be damaging to YPL's case. He therefore asks you whether YPL has to reveal the existence of the minutes to TAL's lawyers, given that he has already signed a list of documents.

- (d) Explain the advice that you would give to Mr Yarmouth relating to these documents and what your duties would be in this situation.

**(9 marks)**

**(Total: 30 marks)**

**End of Examination Paper**