

SUPPORTING MATERIALS

19 January 2018
Level 4
PREPARATIONS FOR PERSONAL INJURY
TRIALS
Subject Code L4-9



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES
UNIT 9 – PREPARATIONS FOR PERSONAL INJURY TRIALS*
SUPPORTING MATERIALS

Information for Candidates on Using the Supporting Materials

- This document contains the supporting materials for your examination.
- You have **THIRTY** minutes' reading time to read these supporting materials and the question paper.
- It is strongly recommended that you use the reading time to read these supporting materials and the question paper fully. However, you may make notes on these supporting materials, the question paper or in your answer booklet during this time, if you wish.

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

* This unit is a component of the following CILEx qualifications: **LEVEL 4 DIPLOMA IN PERSONAL INJURY LITIGATION** and **LEVEL 4 EXTENDED DIPLOMA IN PERSONAL INJURY LITIGATION**

SUPPORTING MATERIALS

INSTRUCTIONS TO CANDIDATES

You are a trainee lawyer working in the personal injury team of Kempstons, The Manor House, Bedford, MK42 7AB. This is a small team comprising the Litigation Partner, Rachel Rampersad, her assistant, Kieren Whittington, and you.

Rachel has asked you to assist her with two files. The first of these is a Public Liability case, where your firm has been instructed by the claimant, Mrs Beryl Hanson. Kieren has prepared a proof of evidence for Beryl Hanson (**Documents 1, 2 and 3**).

The second file relates to a case where your firm is instructed in an Employers' Liability matter by IMS Insurance on behalf of its insured client, Tollworthy Motorparts Limited, who is the Defendant in the case (**Document 4**).

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|-------------------|------------------------------------------------------------------------------------------|
| Document 1 | Proof of evidence of Beryl Hanson |
| Document 2 | Letter from Arthur Grimshaw to Kempstons |
| Document 3 | Attendance note of telephone conversation between Arthur Grimshaw and Kieren Whittington |
| Document 4 | Email from IMS Insurance to Rachel Rampersad |

DOCUMENT 1

PROOF OF EVIDENCE OF BERYL HANSON

1. My name is Beryl Hanson of Flat 35, Cromwell Tower, Cotter Street, London, E1 5BW. My date of birth is 21 July 1958. I am a seamstress at London International Fashion House of 45/51 Tower Lane, London, EC1 6TW. I make this statement in relation to an accident I suffered on 24 June 2017, when I tripped on Cotter Street outside the Cromwell Estate Community Centre.
2. The accident happened at about 6 pm. It was a sunny day and it was still light and clear. I had just got back from work and had been to the local convenience store to buy some ingredients for my evening meal. I was carrying these in a shopping bag. I was holding the shopping bag in my left hand as I am left-handed. I was wearing flat shoes with a leather sole.
3. On the way back to my flat from the shop I have to pass the Community Centre. I was walking on the same side of the street as the Community Centre and had reached a point directly outside the entrance to it.
4. Unfortunately, many of the paving stones on the street outside the Community Centre are loose or broken. On this occasion, I put my right foot on a paving stone that was loose and it rocked to a position where it was 4–5 centimetres below the paving stone in front of it. As a result, when I put my left foot forward, it got caught on the paving stone in front of me. This caused me to fall forwards.
5. I put my hands out to break my fall and heard a loud crack when my hands came into contact with the pavement. I was in terrible pain and in a state of shock. Fortunately, one of my neighbours, Arthur Grimshaw, was coming out of the shopping centre and saw me fall. He called an ambulance and comforted me until it arrived.
6. I was taken to the Royal London Hospital and went straight to the operating theatre. I had broken both my wrists. My left side had taken most of the impact and I had broken my left thumb in three places.
7. I had an operation which repaired and reset the bones. My left wrist needed more attention and a fixator was attached to the wrist. This is a metal device which is fixed to the bones to help them heal in a better position. I had this in for two months while the wrist healed.
8. Unfortunately, while my right wrist has pretty much returned to normal, I am still experiencing problems with my left wrist and thumb. I do not have full movement in either my wrist or thumb. I am also in constant pain. The doctors have indicated that the best way to deal with this would be by means of an arthrodesis. This is an operation to artificially fuse the bones in order to help to relieve the pain.
9. I am really worried about the prospect of all of this because of the impact it will have on my job as a seamstress. I work in the haute couture department in London International Fashion House. We are mainly commissioned to work for high-net-worth individuals and celebrities.

Turn over

SUPPORTING MATERIALS

The dresses we make are all hand-made from the finest materials. The work is very intricate and demands a great deal of dexterity.

10. I have not been able to return to this work since my accident, as I am not able to handle the material in the manner required. My employers have been supportive of me, but I know that they have recently had some high-value commissions and they have indicated that they might have to replace me if I can't come back soon.
11. Apart from missing the job, which I love and have done all my life, I am worried about the impact that this will have on me financially. I used to take home around £400 per week. My employers have been quite generous, as they have given me half pay of £200 per week since the accident, but I have still lost a substantial sum. If I am medically retired, I don't know if I'll be able to find another job, particularly as I have restricted mobility in my hands. This will make it very difficult for me to meet all my outgoings.
12. I am also very annoyed that the accident took place at all, as it could easily have been prevented. Arthur Grimshaw came to see me after the accident to check on how I was doing. He is the secretary at the Community Centre and indicated that he had previously contacted both our local councillors and the local authority's Housing Office to complain about the state of the pavement outside the Community Centre, but nothing was done until after my accident, when repairs were made straightaway.

Signed: *Beryl Hanson*

Dated: 13 December 2017

DOCUMENT 2

LETTER FROM ARTHUR GRIMSHAW TO KEMPSTONS

Flat 56
Cromwell Tower,
Cotter Street,
London,
E1 5BV

Dear Sirs,

I understand that you are dealing with a claim for Beryl Hanson after she tripped outside the Community Centre on Cotter Street. I thought I should write to you as I saw the accident and I know the area well. I have lived there for 30 years and I am the Secretary of the Community Centre.

By way of background, I should say that both Cotter Street and the Community Centre are very busy. Cotter Street has a number of blocks of flats on either side of it. There is also an industrial estate at the end of the road. The Community Centre is well used by people in the local area. In particular, there are several clubs for elderly people that are run there during the day.

As a result, I have been increasingly concerned about the state of the pavement outside the Community Centre. It has been in a poor state for some time, as the paving stones have become broken and uneven.

I have raised the state of the street with our local councillors when they have come to hold surgeries in the Centre. I have also written to the Housing Department about this a couple of times. Unfortunately, I haven't kept copies of the letters, but the council should have them on their file.

As I say, I saw the accident. I remember it happened about 6 pm, as I was just going home to watch the news before coming back for a committee meeting at the Centre that evening. I saw Mrs Hanson walking along with a shopping bag in her hand. All of sudden she fell forward and, as she did so, she put her hands out to break her fall. Unfortunately, she landed awkwardly and injured her wrists very badly.

I ran over to see her and could see straightaway that she was in a lot of pain. I rang an ambulance and looked after her until it came.

I would say that it was a bright and sunny day and there seemed to be no other reason why Mrs Hanson would fall, apart from the state of the pavement.

I understand that Mrs Hanson was badly injured as a result of the accident. It seems to me that the council were clearly to blame for this, as they should have dealt with the pavement well before her accident took place. Instead they repaired it about a week later.

Please let me know if there is anything more you need me to do to help Mrs Hanson with her claim.

Yours sincerely,

Arthur Grimshaw

Turn over

**ATTENDANCE NOTE OF TELEPHONE CONVERSATION BETWEEN
ARTHUR GRIMSHAW AND KIEREN WHITTINGTON**

Client: Beryl Hanson
Matter: Tripping Accident
Date: 20 November 2018
Fee earner: KW for trainee
Time taken: 1 unit

Mr Grimshaw rang. He had received our letter about the forthcoming trial in Mrs Hanson's case. He has recovered from his heart attack and so is back at work. He is, however, a bit uncertain about coming to the trial. He doesn't want to lose a day's pay, as he is still recovering financially from the time that he has been off sick.

He is sorry that he can't be more helpful but he needs all the money he can get and feels that there is enough evidence to support Mrs Hanson's claim without him needing to be there.

DOCUMENT 4

EMAIL FROM IMS INSURANCE TO RACHEL RAMPERSAD

To: Rachel Rampersad
From: Fermina Diaz
Sent: Day before assessment
Subject: Our insured: Tollworthy Motorparts Limited ('TML')
Importance: High

Dear Rachel,

We would like your urgent assistance with this Employers' Liability matter. Our client supplies parts to garages throughout the South of England.

As you will see from the attached papers, in March of this year, one of TML's employees, Josef Lewandowski, was injured when he was helping to unload a lorry load of pistons, which had been delivered by Sanderson Transit Limited ('Sanderson'). The pistons were delivered in pre-packed boxes.

Sanderson's driver, George Gillfort, was loading the boxes onto a conveyor belt in the loading bay. Mr Lewandowski was standing at the other end of the conveyor belt and was loading the boxes onto a forklift truck so that they could be transported to the relevant part of TML's warehouse.

Unfortunately, as Mr Lewandowski lifted one of the boxes off the conveyor belt and twisted to his left to load it onto the forklift, he felt a twinge of pain in his back. As a result of this injury he had to stop work and was off work for four weeks in total. He is still suffering from intermittent pain in his back, which his doctor indicates will not resolve itself for another two years.

Mr Lewandowski subsequently made a claim against our client. In his claim he alleges that our client operated an unsafe system of work and, in particular, failed to provide proper lifting gear to assist him in the task he was undertaking.

We have vigorously defended the claim on our client's behalf. It is our case that the boxes should have weighed 10 kilogrammes each and, as a result, lifting gear would not have been needed for this job. Our investigations reveal that Sanderson's driver had overloaded the boxes so that they weighed between 20 and 25 kilogrammes each.

It also appears that Mr Lewandowski has a history of back problems. As a result, our argument is that this injury is simply an exacerbation of an existing injury. As Mr Lewandowski was paid in full during his absence from work, we feel that this claim is worth no more than £2,000. The Claimant's solicitors have valued the claim at £20,000 and have limited the value to £25,000 in their Particulars of Claim.

Turn over

SUPPORTING MATERIALS

There is clearly some difference between the two sides in this case and so we were unable to settle the matter during the protocol period. The Claimant's solicitors therefore issued proceedings against our client at the beginning of December 2017. They served proceedings on our client immediately after the claim was issued. There is no doubt that the proceedings were served correctly.

Unfortunately, due to a refurbishment of their warehouse, which is also their registered office, there was a problem with our client receiving post on time. Therefore, the court papers were not picked up until yesterday, which is a month after they were served. In the interim, the Claimant has entered judgment in default. We therefore need you to apply to set aside judgment, and to defend the claim fully if you are successful in your application.

Please do ring me if you have any questions about the papers.

Best wishes,

Fermina

End of Supporting Materials