



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 10 – RESOLVING A COMMERCIAL DISPUTE IN ENGLAND AND WALES*

Time allowed: 1 hour and 30 minutes plus 30 minutes' reading time

Instructions to Candidates

- You have been provided with a copy of the supporting materials for you to use in this examination.
- You have **THIRTY** minutes to read through the supporting materials and this question paper before the start of the examination.
- **It is strongly recommended that you use the reading time to read the supporting materials and this question paper fully.** However, you may make notes on the supporting materials, 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 qualification: **LEVEL 4 DIPLOMA IN COMMERCIAL LITIGATION**

Question 1

Reference: Question relates to **Document 1** of the supporting materials.

High End Antiques Ltd wishes to issue proceedings immediately against Medley Surtees & Johnson Auctions LLP.

- (a) Explain which step must be taken prior to issue.
(2 marks)
- (b) Identify what information should be provided to Medley Surtees & Johnson Auctions LLP before High End Antiques Ltd issues proceedings.
(6 marks)
- (c) Explain what sanctions the court could impose if appropriate steps are not taken by High End Antiques Ltd.
(5 marks)
- (d) Explain how Alternative Dispute Resolution would have assisted in this matter.

(5 marks)

(Total: 18 marks)

Question 2

Reference: Question relates to **Documents 1 and 2** of the supporting materials.

The appropriate pre-action procedures have been carried out, but settlement could not be achieved. As a consequence, proceedings are issued.

- (a) Identify and explain which court would be the most appropriate court for commencing proceedings in this matter.

(7 marks)

The claim form and particulars of claim are served on 6 September 2018.

- (b) List the options available to the defendant upon receipt of the claim form and particulars of claim, indicating how long after service they have to undertake such options.

There is a calendar opposite to assist you with Question 2(b).

(7 marks)

(Total: 14 marks)

Calendar for use with Question 2(b)

September 2018							
	Mo	Tu	We	Th	Fr	Sa	Su
						1	2
	3	4	5	6	7	8	9
	10	11	12	13	14	15	16
	17	18	19	20	21	22	23
	24	25	26	27	28	29	30
October 2018							
	Mo	Tu	We	Th	Fr	Sa	Su
	1	2	3	4	5	6	7
	8	9	10	11	12	13	14
	15	16	17	18	19	20	21
	22	23	24	25	26	27	28
	29	30	31				

Turn over

Question 3

Reference: Question relates to **Documents 1 and 2** of the supporting materials.

The case reaches the allocation and directions stage of proceedings.

- (a) Identify the factors that the court will take into account, when allocating the case to a track.

(7 marks)

- (b) Explain which factors in (a) will be most important in the present case in deciding the track that the case should be allocated to.

(2 marks)

The case is allocated to the Multi-track and a Case Management Conference is to be held.

- (c) Explain the purpose and scope of the Case Management Conference.

(4 marks)

(Total: 13 marks)

Question 4

Reference: Question relates to **Documents 3 and 4** of the supporting materials.

One of the directions agreed at the Case Management Conference related to standard disclosure.

- (a) Explain what is meant by 'standard disclosure'.

(3 marks)

- (b) Advise Judith Barnes what the consequences will be for the claim if the contract with Vainius Prackaila is not disclosed.

(2 marks)

It is now May 2019. The client accepts that the contract should be disclosed. You have been supplied with an extract from a precedent form, attached as **Document A**.

- (c) List the documents to be included in each section of **Document A**.

Important: Write your answer in your answer booklet, not on Document A.

(9 marks)

- (d) Explain whether a joint expert would be appropriate in this case.

(2 marks)

(Total: 16 marks)

Question 5

Reference: Question relates to **Document 1** of the supporting materials.

The case progresses to trial. The court will require skeleton arguments for the trial.

(a) Explain what a skeleton argument should include.

(4 marks)

Your client is concerned that it will have no further recourse if it loses.

(b) Explain to your client the grounds on which an appeal could be made.

(3 marks)

High End Antiques Ltd is successful at trial.

(c) Explain who is responsible for drawing up and serving the judgment.

(2 marks)

(Total: 9 marks)

Turn over

DOCUMENT A

EXTRACT FROM STANDARD DISCLOSURE FORM (N265) TO BE USED WITH QUESTION 4(b)

List and number here, in a convenient order, the documents (or bundles of documents if of the same nature, e.g. invoices) in your control, which you do not object to being inspected. Give a short description of each document or bundle so that it can be identified, and say if it is kept elsewhere i.e. with a bank or solicitor

I have control of the documents numbered and listed here. I do not object to you inspecting them/producing copies.

List and number here, as above, the documents in your control which you object to being inspected.
(Rule 31.19)

I have control of the documents numbered and listed here, but I object to you inspecting them:

Say what your objections are

I object to you inspecting these documents because:

List and number here, the documents you once had in your control, but which you no longer have. For each document listed, say when it was last in your control and where it is now.

I have had the documents numbered and listed below, but they are no longer in my control.

End of Examination Paper

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