

SUPPORTING MATERIALS

11 June 2018

Level 4

**DAMAGES, SETTLEMENT AND COSTS IN
PERSONAL INJURY CASES**

Subject Code L4-6



**CHARTERED INSTITUTE
OF LEGAL EXECUTIVES**

THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

**UNIT 6 - DAMAGES, SETTLEMENT AND COSTS IN PERSONAL
INJURY CASES***

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 at a firm of solicitors, Kempstons LLP, The Manor House, Bedford, MK42 7AB, where you assist Ben Payne.

Ben has asked for your assistance on the file of Sam Kaur.

The following documents are relevant to his claim.

- Document 1** Memorandum from Ben Payne to Trainee Lawyer
- Document 2** Letter from Gemma Mercer, FRCS, to Ben Payne
- Document 3** Email from Philip Krishnan of Noah Bains Solicitors to Kempstons LLP
- Document 4** Letter from Noah Bains Solicitors to Kempstons LLP

DOCUMENT 1

MEMORANDUM FROM BEN PAYNE TO TRAINEE LAWYER

Date: 4 May 2018
To: Trainee Lawyer
From: Ben Payne
Re: Sam Kaur (Date of birth: 2 January 1993)
Accident Date: 17 November 2017

We were instructed by Sam in January 2018. Sam is a professional ice-skater. He was involved in an accident on 17 November 2017. Sam was just about to begin an eight-week run of shows, and was changing costumes in the dressing room at Sparkle Ice Dome, when he slipped on the wet floor and fell to the ground. As he did so, he twisted his ankle and sprained his wrist. Sam was taken by ambulance to Kempston General Hospital. Sam's partner, Jacob, who had been in the audience, went straight to the hospital. Sam was seen in the Accident and Emergency Department. Fortunately, the ankle was not fractured, but it was discovered that he had fractured the wrist, which was put in plaster.

Sam remained in hospital overnight and was then discharged home. The ankle injury resolved after 6 weeks but the wrist symptoms have remained, although Sam has had a 10-week course of physiotherapy. I don't yet have all the details, but I understand that Jacob cared for Sam (I expect doing the usual things like shopping, cleaning and ironing). When necessary, Jacob also drove Sam, in Jacob's car, to hospital and physiotherapy appointments.

As a result of his injuries, Sam was unable to continue with the show schedule that he was due to perform. He had been scheduled to perform five evening shows per week and two matinee performances per week. During his absence, he was paid his basic salary of £2000 net per month but was not paid his bonus of £150 net for each show. He also lost the opportunity to audition for a new production beginning in February 2018.

Sam returned to work in March, but he has been told that he will not be appointed to any starring role in forthcoming shows because of the risk of him not being able to perform to the expected standard. Someone else has been promoted in his place. Sam will be allowed to be a member of the supporting cast, but his employment is now less secure and, because of his demotion, his salary has been reduced to £1000 net per month and his bonus for each show is now £75 net.

Please see the letter I have just received from Miss Gemma Mercer (**Document 2**), who is an orthopaedic surgeon, and which answers some queries arising from her report received last week [**Not reproduced**]. I will let you know what assistance I need to progress the case.

Ben Payne

Turn over

DOCUMENT 2

LETTER FROM GEMMA MERCER, FRCS TO BEN PAYNE

Gemma Mercer
FRCS
Crown Orthopaedic Services
Bedford

Kempstons LLP,
The Manor House,
Bedford,
MK42 7AB

3 May 2018

Your ref: BP/1654/Kaur

Dear Sirs,

I have received your letter of 2 May 2018.

I understand my duty to the court in replying to your letter and I am pleased to clarify my opinion in relation to treatment options and prognosis.

As noted in my report, we are now a little over six months post-accident. Sam reports no ongoing symptoms from his ankle and he is able to skate without any difficulty. However, I am concerned that there is ongoing pain in the wrist joint, and that it has not healed as well as I had hoped. This restricts his ability to skate with a partner.

Physiotherapy treatment has assisted and a further course would be appropriate. However, there is likely to be a delay in obtaining such treatment as there is often a waiting list.

I would expect that, following further physiotherapy, there will be a further slow resolution of symptoms in the wrist, although there is likely to be some persisting pain and stiffness. If symptoms worsen, we may need to consider surgery as an option. In that event, I consider there to be a risk of developing arthritis in the joint with symptoms apparent within five to ten years.

I trust the above answers your queries.

Yours faithfully,

Gemma Mercer
FRCS

**EMAIL FROM PHILIP KRISHNAN OF NOAH BAINS SOLICITORS TO
KEMPSTONS LLP**

From: Noah Bains Solicitors: nb@bains.co.uk
To: enquiries@kempstons.llp.co.uk
Date: 18 July 2018
Our ref: Philip Krishnan PK 245
Your ref: BP/1654/Kaur

Without prejudice save as to costs

Dear Sirs

Re: Your client Samuel Kaur and our client Sparkle Ice Dome

Further to our client's response to your client's letter of claim, we write to confirm that we are now instructed in this matter.

Following discussion with our client, we are instructed to offer the sum of £25,000 in full and final settlement of the whole of your client's claim.

Whilst primary liability has been admitted, our clients consider that your client should accept a reduction in damages as he was running in the dressing room when he slipped.

Our client's offer is made pursuant to Part 36 of the CPR. There is no counterclaim. The offer is intended to include any relevant deductible benefits for which our client is liable under the Social Security (Recovery of Benefits Act) 1997.

You have 21 days from the date of service of this letter to accept the offer.

We look forward to hearing from you.

Yours faithfully,

Philip Krishnan

Noah Bains

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LETTER FROM NOAH BAINS SOLICITORS TO KEMPSTONS LLP

**Noah Bains Solicitors
The Butts
Barn Street
Norfolk**

Kempstons LLP,
The Manor House,
Bedford,
MK42 7AB

17 October 2018

Our ref: Philip Krishnan PK 245
Your ref: BP/1654/Kaur

Without prejudice save as to costs

Dear Sirs,

Re: Your client Samuel Kaur and our client Sparkle Ice Dome

Thank you for your letter of 3 September 2018 enclosing notice of commencement and your bill of costs.

We apologise for our delay in replying to you. We are not yet in a position to serve our client's points of dispute but we have had opportunity to consider your costs and to take our client's instructions.

We are instructed to offer the sum of £22,000 in respect of your costs, VAT and disbursements.

We look forward to hearing from you when you have had opportunity to take your client's instructions.

Yours faithfully,

Philip Krishnan

Noah Bains

End of Supporting Materials

