

SUPPORTING MATERIALS

15 June 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 at a firm of solicitors, Kempstons LLP, The Manor House, Bedford, MK42 7AB. You are working in the Serious Injury Team under the supervision of Ms Karimah De Four (KDF), who is the Head of the team.

Karimah has asked you to assist her with two files. The first of these is a road traffic accident, where your firm has been instructed by Mrs Vanessa Larsson on behalf of her teenage daughter, Samantha. You sat in with Karimah when she met Mrs Larsson. An extract from the attendance note of the meeting is on the file (**Document 1**).

The second file relates to a case where your firm is instructed in an Employers' Liability matter by Workcare Insurance on behalf of its insured client, Exmouth Lighting Limited, which is the Defendant in the case (**Documents 2 and 3**).

You arrive at the office to find the following documents requiring your attention:

- Document 1** Extract from Attendance Note of meeting with Mrs Vanessa Larsson
- Document 2** Email from Workcare Insurance to Karimah De Four
- Document 3** Email from Amarjit Singh to Billy Taylor

DOCUMENT 1

**EXTRACT FROM ATTENDANCE NOTE OF MEETING WITH
MRS VANESSA LARSSON**

KDF and trainee lawyer attending Vanessa Elizabeth Larsson with respect to the accident involving her daughter Samantha Jane Larsson ('Sam'). Sam was born on 14 December 2005. She lives at home with her mother in the Old Farm House, Pear Tree Lane, Draycott, Near Bedford, MK42 1DA. Sam was not present at the meeting, as she was receiving treatment in hospital at the time.

The accident took place on 19 April this year at about 4.15 pm, when Sam was on her way home from school. She attends Shawcross Academy which is a couple of miles from Draycott. As Mrs Larsson has a part-time job, Sam travels to and from school on a bus run by the local authority.

Every afternoon, the bus drops Sam off at a bus stop directly opposite the top of Pear Tree Lane. To get home Sam therefore has to cross the A428. This can be quite a busy road as it connects to the A6 and then the A1. There are no pedestrian crossings immediately adjacent to the bus stop.

The day of the accident was bright and sunny. Mrs Larsson came to the end of Pear Tree Lane to wait for her daughter as they were planning to go for a walk together. The traffic was starting to build up both from the school run and with people going home from work.

The bus dropped Sam and some other children off in the normal place. She saw her mother as she got off and waved to her. Sam then went around the back of the bus. The traffic on her side of the road was stopped behind the bus and therefore Sam went to cross the road. She was keen to join her mother for their walk and she ran out into the road.

Unfortunately, she did not check to her left for cars coming the other way before she ran into the road. In the other lane was an Audi A3, registration number BD64 SMR, being driven by Bryn Roberts. Mrs Larsson has subsequently discovered that his address is Flat 3, 35 Colclough Close, Kempston, Bedford, MK42 8HY.

Mrs Larsson couldn't say how fast Mr Roberts was driving. She believes that he might have been within the speed limit, but she can't be certain about that. At the same time, it was clear that a group of children had just got off the school bus, and so Mrs Larsson feels that Mr Roberts should have been driving more slowly.

In any event, once Sam had crossed onto his side of the road, there wasn't enough time for Mr Roberts to stop. His car therefore struck Sam and threw her into the air. Mrs Larsson was unable to say much more about what happened after that. She does, however, remember the police and ambulance service arriving. She went to the Bedford University Hospital in the ambulance with her daughter.

The police officer in the case is PC 4562 O'Mara from Bedford Central police station. She has informed the family that the police are investigating the matter and are considering prosecuting Mr Roberts for driving without due care and attention.

Turn over

SUPPORTING MATERIALS

The aftermath of the accident has clearly been quite traumatic for Mrs Larsson and her family, as she was quite tearful during the interview. She explained that the prognosis for Sam is not good. Her major injury was to her spine. She has not been able to walk since the accident and it appears that she may be confined to a wheelchair for life. The doctors are, however, doing what they can to prevent this.

Aside from the physical injuries, Sam has become very withdrawn and depressed. Prior to the accident she was a lively and happy girl, but she is now very uncommunicative. Sam is also having trouble sleeping, as she has nightmares about what happened. She is receiving ongoing treatment from a psychiatrist.

Sam has been put on the waiting list for both her physical and psychiatric injuries, as there is further treatment that might aid her recovery. Unfortunately, the cuts in the NHS locally mean that there are long waiting lists for these treatments. Mrs Larsson does not have the means to pay for this treatment privately, despite the positive impact that it would have on Sam's health.

At the end of the interview, we discussed the relevant client care matters, which we will confirm in our standard letter. We will take the case under a Conditional Fee Agreement (CFA) and have advised Mrs Larsson about insurance. We will confirm this in writing when we send out the CFA to her.

Mrs Larsson wanted some preliminary advice on what happens next. She has not been involved in such a case before and so will need advice on the procedure throughout the case.

Time spent: 60 minutes

Fee earners: KDF and trainee lawyer

DOCUMENT 2

EMAIL FROM WORKCARE INSURANCE TO KARIMAH DE FOUR

To: Karimah De Four
From: Neil McInally
Sent: [Yesterday's date]
Subject: Our insured: Exmouth Lighting Limited ('ELL')
Importance: High

Dear Karimah,

I would like your urgent assistance with this Employers' Liability matter. You'll see that one of our insured's employees, Danny Johnson, has suffered serious injuries as a result of an accident that he had at work on 19 October 2017.

By way of background, I should explain that our insured is a small firm, which provides lighting for major events throughout the world. The Managing Director is Billy Taylor who spends a lot of his time on site. He can, therefore, be hard to get hold of at times.

On the day of the accident, our client's employees were rigging up lighting for a 'son et lumière' classical music event at a castle in North Yorkshire.

In order to position the lights at the correct angle, the riggers who were fitting the lights had to work on a series of gantries that were placed at 40 feet, 50 feet and 60 feet above ground level. The gantries had been erected by a separate company called Stadium Scaffolding Limited. There was a quick turnaround for the work, and our instructions are that, as a result of this, there was no time to check the gantries properly, before people started working on them.

Danny Johnson ('the claimant') was working on the highest of the gantries when the accident happened. Unfortunately, the safety rail on the right-hand side of the gantry had not been properly secured. The claimant leant on the rail to support himself when he was working on one of the lights and it gave way beneath him.

The claimant's safety harness was attached to the rail, so it didn't stop him falling. The harness did, however, get tangled up and flip him over, so that he fell head first onto the gantry 10 feet below.

The claimant was wearing a hard hat, but he still suffered a severe blow to the head. He also fractured two of the bones in his neck. The doctors have said that, with intensive treatment, he will largely recover from the injuries to his neck. There are, however, serious complications arising from the blow he suffered to his head. The claimant has started suffering severe seizures and has been diagnosed as epileptic.

As it is a small firm, Billy was not unsympathetic to the claimant's situation, but once the diagnosis of epilepsy was made, he felt it would be unsafe to continue to employ the claimant. He therefore terminated the claimant's contract in late

Turn over

SUPPORTING MATERIALS

November. Shortly after his termination, the claimant instructed solicitors to pursue a claim for personal injury against our client.

We dealt with the claim during the Protocol period and have attached scanned copies of the necessary correspondence. **[Note to candidates: this correspondence is not necessary for this assessment, so has not been supplied.]** We were unable to reach a settlement of the case, so the claimant's solicitors issued proceedings on 12 April 2018.

They served the proceedings on our insured at its registered office. Unfortunately, at that time, Billy Taylor was in Qatar for three months, as he had a big contract to install lighting in the stadia for the World Cup. The administrative assistant who looked after the paperwork while Billy was away didn't realise the its significance, and therefore put it to one side for him to deal with on his return to the country.

As the claimant's solicitors received no response to the papers, they entered judgment in May. Billy arrived back in the country last week and contacted us immediately, once he saw the papers. He has now sent them to us. Again, a scanned copy is attached. **[Note to candidates: this paperwork is not necessary for this assessment, so has not been supplied.]**

We now need you to deal urgently with the case, as we wish to defend it.

Best wishes,

Neil

DOCUMENT 3

EMAIL FROM AMARJIT SINGH TO BILLY TAYLOR

To: Billy Taylor
From: Amarjit Singh
Sent: 12 October 2017
Subject: Safety on North Yorkshire job
Importance: High

Hi Billy,

I just thought I should drop you a line about the North Yorkshire job. I've heard that the gantries are being put up by Stadium Scaffolding Limited. You might remember that we had a lot of problems with them on a job down in Kent last year.

They are a pretty shoddy outfit and they cut some corners with the work that they did. Unfortunately, I'm on holiday for the next 10 days, and so I won't be able to carry out the normal inspections. You'll therefore need to keep a very close eye on what they do.

Hope it all goes well.

Amarjit

Amarjit Singh
Safety Officer
Exmouth Lighting Limited

End of Supporting Materials

