



## 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**

**BLANK PAGE**

## Question 1

Reference: Question relates to the **Advance Instructions to Candidates** in relation to **Anton Ferrara** in the case study materials and to **Documents 1, 2 and 3**.

Brigitta asks you to draft a letter of claim to Long Meadow Garden Centre.

- (a) Identify with which pre-action protocol you should comply, giving three examples, other than the parties' details, of what should be included in the letter of claim.

**(5 marks)**

It is now May 2018. Proceedings have been issued. Charlesworth LLP represents the interests of the defendant. Brigitta has asked you to deal with an urgent query that has arisen in this matter and hands you (**Document 1**) with Anton's file.

- (b) Explain how you would respond to the defendant's points that the claim has been issued and served out of time.

**(5 marks)**

The defendant accepts the points which are made in relation to issue and service of the claim form, and serves a defence in which liability is admitted. Your client telephones Brigitta to discuss matters and Brigitta makes a note of the conversation (**Document 2**).

- (c) Explain, as a result of the information received, what action, other than entering judgment on the admission, Anton should take, and what information will be necessary to enable you to take that action on his behalf.

**(15 marks)**

Within two days of speaking with Anton, you receive from the defendant's lawyers a letter (**Document 3**). You have now received the up-to-date medical report referred to in **Document 2**.

- (d) Explain what advice you should give Anton on receipt of the letter (**Document 3**) and which would be in his best interests.

**(5 marks)**

**(Total: 30 marks)**

**Turn over**

## Question 2

Reference: Question relates to the **Advance Instructions to Candidates** in relation to **Jules Bosworth** in the case study materials and to **Documents 4 and 5**.

You receive Flair Garages Ltd's defence, which you consider carefully. You note that the defence does not deal at all with the allegation set out at **paragraph 4** of the Particulars of Claim (**Document 4**). The defence does deal with the roadworthiness of the car, the repair costs and the car's value.

- (a) Explain, given the available information above, and the wording of paragraph 4 of the Particulars of Claim (**Document 4**), whether Jules Bosworth must still prove his allegation that the representation was made, and that the car was not roadworthy.

**(5 marks)**

The matter proceeds and, although liability is not conceded, a negotiated settlement is reached. You take Jules' further instructions upon receipt of (**Document 5**) and he agrees the terms set out.

- (b) Draft the valid order to reflect the terms of agreement set out in **Document 5** and explain why such an order is appropriate.

**(15 marks)**

Assume that the valid order has been sealed by the court. It is now 15 May 2018. No payments have been made by the defendant.

- (c) Advise Jules what action he should now take.

**(6 marks)**

**(Total: 26 marks)**

### Question 3

Reference: Question relates to the **Advance Instructions to Candidates** in relation to **Hana Krawitz** in the case study materials and to **Document 6**.

Directions have been given in this matter, including for service of witness statements. No trial date has yet been given. Service of witness statements is due to take place in one week's time. Although you will be able to serve your client's statement on the timetabled date, you will not be able to serve the statement of the independent witness, Mr Felix Shotton, as he has not yet returned his signed statement to you and you understand that he is now on holiday.

- (a) Consider whether an application to the court may be necessary and, if so, what submissions should be made to the court and why.

**(12 marks)**

While deciding what to do about Felix Shotton's witness statement and the impending date for service, Brigitta receives an email from Hana Krawitz (**Document 6**), which she passes to you to deal with.

- (b) Explain why you cannot comply with Hana's request (**Document 6**), bearing in mind your duty to comply with your professional regulatory requirements.

**(10 marks)**

**(Total: 22 marks)**

**Turn over**

#### **Question 4**

Reference: Question relates to the **Advance Instructions to Candidates** in relation to Rawlings Property Development Ltd in the case study materials and to **Document 7**.

You are preparing a list of documents on behalf of Rawlings Property Development Ltd in order to comply with a direction for standard disclosure. Peter Rawlings has sent you all of his documents, but has not sent you a copy of the surveyor's report mentioned in (Document 7).

- (a) Explain how you should deal with the surveyor's report mentioned in (Document 7) and why.

**(6 marks)**

You choose to disclose the surveyor's report.

- (b) Advise Peter what application the claimant might consider making in these circumstances to conclude the matter before trial and explain why, mentioning any possible submissions which you might make to the court.

**(9 marks)**

The claimant's lawyers make the application which you had anticipated.

- (c) Explain how costs may be dealt with by the court at the hearing.

**(7 marks)**

**(Total: 22 marks)**

**End of Examination Paper**

**BLANK PAGE**

**BLANK PAGE**

