



## 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**

## Question 1

Reference: Question relates to the **Advance Instructions to Candidates** in relation to **Ania Toms** in the case study materials and to **Document 1**.

- (a) Explain, with reference to the SRA Code of Conduct, whether it is appropriate for Melanie to have conduct of Ania's claim.

**(10 marks)**

You carry out the research as requested by Melanie (**Document 1**) and meet with her and Douglas Olubisi the following afternoon. At the outset of the meeting Melanie suggests that, on the facts, it would be better to send a letter of claim only to Blink Deliveries.

- (b) Explain, with reference to the liability issues which arise, whether Melanie's suggestion would be a sensible course of action.

**(14 marks)**

It is now August 2018 and you are asked to issue proceedings. You have established that, at the date of the accident, Blink Deliveries was a partnership with two partners, Fearn and Warren. Since the date of the accident, the partnership has dissolved. Fearn is now a sole trader and runs the same business at the same address but under the name Friendly Fearn.

- (c) State, given this information, how you should correctly identify the intended defendant in the claim form.

**(6 marks)**

**(Total: 30 marks)**

## Question 2

Reference: Question relates to the **Advance Instructions to Candidates** in relation to **Jacob Hodgetts Ltd** in the case study materials and to **Documents 2 and 3**.

Melanie has not taken any action since her telephone call with the client on 28 May 2018. She gives you the client's file and asks you to do what is necessary to progress the claim.

- (a) Explain what immediate action you should take to progress the claim for the client.

**(10 marks)**

In due course, you are instructed to issue proceedings.

- (b) Explain whether Jacob Hodgetts Ltd is able to claim interest in respect of the debt and, if so, how that should be done.

**(7 marks)**

Proceedings are issued and served. Kay's Distributors Ltd serves a defence denying liability and in respect of which you write to their solicitors, Briden Wall (**Document 3**), to which you receive no response on the issues raised.

- (c) State whether further action by you is appropriate in the circumstances.

**(6 marks)**

**(Total: 23 marks)**

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### Question 3

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

Notice of Allocation has been received from the court. The court has provisionally allocated the matter to the fast track. Directions Questionnaires have been received from the court. You receive a letter from Briden Wall Solicitors (**Document 4**).

- (a) Explain whether the fast track or the multi-track is the most suitable for this claim and, bearing in mind the client's instructions, identify a useful step to take at this stage.

**(10 marks)**

Despite your best efforts to reach resolution, the matter proceeds. You draft a witness statement for Gillian Matharu, a former employee at Jacob Hodgetts Ltd, who packaged the order for delivery to Kay's Distributors Ltd. Gillian returns to you the signed witness statement as an attachment to her email (**Document 5**), which was served in accordance with the court's directions. In her email, Gillian explains that she would be unable to attend trial, as she has a long-term health condition and is not permitted to travel.

**NOTE: Gillian Matharu's witness statement does not form part of the examination materials and is not necessary to answer the questions.**

- (b) Outline what action you will take in light of the information contained in **Document 5** in order for the client to rely upon Gillian's evidence.

**(7 marks)**

- (c) Explain what weight will attach to Gillian's evidence at trial.

**(6 marks)**

**(Total: 23 marks)**

#### Question 4

Reference: Question relates to the **Advance Instructions to Candidates** in relation to **Morgan Wong** in the case study materials and to **Documents 6 and 7**.

Disclosure and exchange of witness statements has taken place. You receive a letter (**Document 6**) from the defendant's solicitors, Gane Patel LLP. You meet with Morgan Wong to discuss the letter and the matter generally. You have some concern that there is a risk that Morgan may not succeed at trial, but you remain hopeful of a successful outcome.

- (a) Outline the options that Morgan might consider, identifying the one which is most in the client's best interests.

**(14 marks)**

Having met with Morgan Wong, you are instructed to proceed to trial. On 13 July, you receive a letter from the defendant's solicitors, Gane Patel LLP, which sets out a valid Part 36 offer. You write that same day to Morgan, to obtain his instructions. Several weeks later, you receive Morgan's instructions by email (**Document 7**).

- (b) Advise Morgan of the implications of accepting the Part 36 offer at this stage.

**(10 marks)**

**(Total: 24 marks)**

**End of Examination Paper**

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