

SUPPORTING MATERIALS

January 2019
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**

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INSTRUCTIONS TO CANDIDATES

You are a trainee lawyer at a firm of solicitors, Kempstons LLP, The Manor House, Bedford, MK42 7AB, where you assist the Litigation partner, Nasima Begum. She has asked you to assist her with two personal injury cases.

In the first case, Kempstons are acting for Atif Patel who believes that he has contracted dermatitis as a result of substances that he has come into contact with during the course of his employment with West Bedford Castings Limited.

Mr Patel has already been interviewed about his case and a proof of evidence has been prepared for him (**Document 1**).

In the second case, you have been asked to act for Heart of England Adventure Parks Limited with respect to a serious injury that was suffered by a five year old child called Joshua Barnett. In this case, you have received instructions from Midshire Mutual Insurance Limited (**Document 3**).

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|-------------------|--|
| Document 1 | Proof of evidence of Atif Patel |
| Document 2 | Email from Atif Patel to Nasima Begum |
| Document 3 | Email from Midshire Mutual Insurance Limited |
| Document 4 | Attendance note of telephone call from Joe Brown |

DOCUMENT 1

PROOF OF EVIDENCE OF ATIF PATEL

1. My name is Atif Patel of 39 Coventry Road, Kempston, Bedfordshire, MK42 7PG. My date of birth is 20 October 1991. I was, until recently, a machinist in the firm of West Bedford Castings Limited. I believe that I have contracted dermatitis as a result of my employment at the firm.
2. I have been a machinist throughout my working life. I did my apprenticeship at MK Castings. I started there when I left school at 16. I worked there for 10 years and then moved to West Bedford Castings in 2017, and I was there until 5 months ago.
3. My job involved manufacturing components for the motor vehicle and shipbuilding industries. I worked on three different machines, depending on the components that I was making. Each machine is numbered by the firm and I worked on 34, 35 and 36.
4. The machines use a variety of lubricants and oils to keep them working smoothly. The excess liquid from these substances drains into a container under the machine called a sump.
5. The sump has to be cleaned on a fairly regular basis, as loose bits of metal come off the components as we are working on them. These bits of metal block up the sump, which results in oil overflowing onto the factory floor. I would estimate that this happened every two to three weeks.
6. In order to clean the sump, I first had to remove the excess pieces of metal so that I could release the blockage. I did this by just putting my hands into the oil and pulling the metal out.
7. We were issued with gloves for this task, but they were not adequate for the job. They were made of thin rubber which tore easily when the gloves came into contact with the metal. They were also not long enough, so oil sometimes got into the top of them.
8. Along with a couple of other machinists, I complained about the gloves to Jack Stanley, the Operations Director in the firm. I explained to him that at MK Castings we were given thick rubber gloves which went up to our elbows when we had to do a job like this. He was, however, very dismissive and just told us that we could get a job elsewhere if we felt like this.
9. We did then raise the issue of the gloves with the firm's Health and Safety Committee. Unfortunately, our complaints were dismissed, and we were told that the gloves were adequate.
10. Despite the lack of adequate gloves, I initially didn't experience any problems as a result of having to clean the sump in this way. However, about a year ago, we had a couple of big jobs on and I had to clean the sump three times in two weeks.
11. After the third clean out, I started to develop a rash over both my hands. This got gradually worse and my skin became very raw and itchy. The skin on my hands then started to split and bleed.

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12. At my wife's insistence, I went to see my GP, who referred me to a specialist. He diagnosed me with contact dermatitis. When I went to see the specialist, he asked me about my work and what substances I was exposed to. I explained to him the system for cleaning the sump. This was the only time I came into contact with any such substances, as the machines we worked on were fully enclosed.
13. The specialist explained to me that my condition would only get worse if I continued to come into contact with the substances. He therefore gave me a letter for my employers to explain the situation.
14. I gave this letter to the HR department and asked to be excused from having to clean the machines. I was, however, told that this wouldn't be possible as this was part of a machinist's job. They then sent me to be seen by their own specialist.
15. The company's specialist recommended that I be taken off machine work as this would simply exacerbate my condition, which was already very difficult to manage. HR therefore decided that there was no option but to terminate my employment as they had no other jobs for me, particularly as being a machinist is all I am qualified to do.
16. I finished at West Bedford Castings about 5 months ago and have been looking for work ever since. I have had a couple of interviews but, as soon as they see the state of the skin on my hands, they seem much less enthusiastic about employing me. Most of the other applications have asked for details of medical conditions and, although I have been well-qualified for the jobs themselves, I have never been called for an interview. I believe this is because of my condition.
17. I am now getting worried about how I am going to survive. The wages went up and down at West Bedford Castings, but I was earning on average about £600 a week. I am getting a small amount of Universal Credit, but we are really struggling as this is a big drop in income for me.
18. My wife works part-time in a local school, but her wage only gives us enough to pay for food and some of the bills. We have two young children and it really upsets me to see how we have had to cut back and that we can't buy things for them. I am really eating into what savings we have in order to get by. I have therefore decided to seek help in taking action against West Bedford Castings, as I feel they are to blame for my current predicament.

Signed: Atif Patel

Dated: 31 October 2018

EMAIL FROM ATIF PATEL TO NASIMA BEGUM

To: Nasima Begum
From: Atif Patel
Sent: 20 October 2019
Subject: My case

Hello Nasima. Thanks very much for letting me know that West Bedford Castings have agreed to settle my case. That's really good news.

I understand what you say about them still disputing what exactly caused my dermatitis. I expect they'll want to get their own doctor to look at me like they did before. That took a good 2–3 months to organise last time, particularly as he wanted to look through all of my medical records.

Can you let me know what is going to happen now? I know you're doing a great job for me but I am getting really desperate now. We're having real battles with the Universal Credit people and so me and my wife have been skipping meals so that the kids can eat properly.

I can't believe they're going to spin it out much longer, but we could do with some money straightaway.

Thanks again for what you're doing.

Atif

Sent from my iPhone

EMAIL FROM MIDSHIRE MUTUAL INSURANCE LIMITED

To: Nasima Begum
From: Andrew Holness
Sent: 9 January 2019
Subject: Heart of England Adventure Parks Limited
Status: High

Dear Nasima,

I hope all is well with you. I will need your assistance with a case involving our insured client, Heart of England Adventure Parks Limited. As you might know, they run a network of family-friendly holiday villages in the Midlands and the North of England.

The case we are dealing with has received quite a bit of press coverage and is likely to be of some considerable value. We therefore want you to be involved right from the start, as it will need to be handled properly.

The accident which led to this happened on 25 October 2018 and involved a 5-year-old boy called Joshua Barnett. He was staying at the Oaklands Adventure Park, which is in the Peak District, near Buxton in Derbyshire. He and his family were having a half-term break at the Park.

The central feature of the Park is a lake around which most of the chalets are based. It's a peaceful setting and so cars are banned in the Park. Each guest is given the use of bicycles to get around. These include small trikes for young children.

On the day of the accident, Joshua and his family had just had lunch and his parents were in the chalet cleaning away the dishes. They let Joshua and his older brother Adam, who is 12, play in the front garden of the chalet. This slopes down to the lake.

It is not entirely clear what happened from then, but you'll see from the attached letter of claim (**Note – this has not been supplied**) that the Claimant's solicitors allege that Joshua got on the trike the family had been given for him. He then started pedalling down the slope. His brother shouted to Joshua to put on the brakes. Joshua tried to do so but the brakes didn't work, and he was pitched head first into the lake.

Adam tried to pull his brother out of the lake but was unable to do so as Joshua had become caught in some reeds which were by the lake side. He shouted for his father, who ran out of the chalet and managed to pull Joshua out of the water.

Joshua was under the water for between 30 seconds to a minute during which time he had swallowed a lot of water. He was alive but was clearly in a serious condition. He was taken to the hospital by air ambulance immediately after the

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accident. There was, however, little the hospital could do to alleviate his condition.

The Claimant's solicitors haven't obtained any medical evidence, but it is clear from their letter that unfortunately Joshua has suffered brain damage as a result of the accident. The case is therefore of some considerable value as Joshua will require lifelong care.

After the accident, there was an investigation by the Health and Safety Executive. They examined the trike and found evidence of problems with the brakes. Our clients are surprised by this as they have a rolling programme of maintenance of the bikes. This is carried out by Velospeed Limited, a local specialist in bicycle repair. Our client's records show that the trike in question was serviced by Velospeed about three weeks before the accident.

There is more paperwork on the circumstances of the accident and the subsequent investigations in the attached bundle. We received the letter of claim two days ago and so we would be grateful if you could deal with this case as a matter of urgency so that we don't miss any time limits and so end up on the 'back foot' with the Claimants.

Please do ring me on my direct dial number if you wish to discuss this further.

Best wishes

Andrew Holness

Turn over

DOCUMENT 4

ATTENDANCE NOTE OF TELEPHONE CALL FROM JOE BROWN

Mr Brown rang. He is one of the directors of Heart of England Adventure Parks Limited. He will send us a letter with his instructions on the documents in due course. In the meantime, he has a bit of a problem which he wants to discuss with you.

Apparently, they were having a clear out at the firm and were getting rid of some old files. In one of them they found a letter that Velospeed had sent to Heart of England when they sent back the bikes they had serviced shortly before the accident. Unfortunately, the letter had been placed in the wrong file which is why they only found it now.

In the letter, Velospeed had mentioned that although they had serviced the brakes on the trikes, the manufacturers had now recommended fitting a new type of disc brake to the trikes as these were much more reliable.

Mr Brown sounded quite worried and wanted you to call him back as soon as possible. In essence, he wanted to know whether they would have to reveal the existence of this document, particularly as we had already sent a list of documents to the Defendant.

End of Supporting Materials