



## 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**

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## Question 1

Reference: Question relates to **Documents 1 and 2** of the case study materials.

- (a) Advise, with reference to the information contained in the attendance note, whether Andrew Haynes's conduct has been professional in accordance with the SRA Code of Conduct.

**(7 marks)**

Later on 14 January, Seamus telephoned Andrew Haynes and told him that, after a thorough search of the post room, he had found, behind a radiator, the unopened envelope containing the court documentation relevant to proceedings brought by Imagine Images Ltd. Seamus advises that the post is normally opened on a table, and it seems that the envelope slipped unseen from the table and fell behind the radiator.

- (b) Explain what application Heath College should now make, mentioning the considerations which the court will take into account.

**(7 marks)**

- (c) Andrew Haynes asks you to draft the appropriate documents, so that the application referred to in 1(b) above can be issued.

- (i) State and explain the reasons which you would include in the witness statement in support of Heath College's application.

**(8 marks)**

- (ii) Advise Seamus on the reasons why Imagine Images is likely to oppose the application.

**(5 marks)**

**(Total: 27 marks)**

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## Question 2

Reference: Question relates to **Document 3** of the case study materials.

The Pre-action Protocol for Personal Injury Claims has been complied with, and the defendant has denied liability. Andrew Haynes asks you to prepare the necessary documents, so that proceedings can be issued.

- (a) **In your answer booklet**, draft those particulars of negligence (which form part of the particulars of claim) that specify Sasha's cause of action and the allegations she might rely on.

**[NOTE TO CANDIDATES: You are NOT required to draft the entire particulars of claim.]**

**(8 marks)**

Proceedings are issued and served. A defence is filed, denying liability and alleging that Sasha is responsible for the accident and for the cause, nature and extent of the injury, loss and damages sustained.

- (b) State to which track the court is likely to allocate the claim, giving the reasons for your answer.

**(5 marks)**

Witness statements have been exchanged. Each party blames the other. There are no other witnesses except the parties themselves. The medical evidence from a single joint expert suggests that Sasha's injuries would have been lessened, but not avoided, had she been wearing her seat belt. You are in a position to evaluate quantum.

- (c) Consider what advice on the evidence it is appropriate to give Sasha with regard to liability.

**(10 marks)**

- (d) Advise Sasha what she should do to protect her interests and give your reasons.

**(7 marks)**

**(Total: 30 marks)**

### Question 3

Reference: Question relates to **Document 4** of the case study materials.

As a tactical measure, you have held without prejudice discussions with Caleb Robertson's solicitors. Following those, you receive a letter from them (**Document 4**).

(a) Explain whether Sasha's duty of disclosure extends to evidence of the conviction.

**(5 marks)**

(b) Explain whether the evidence of Sasha's conviction can be relied upon by Caleb at trial and whether this is a concern.

**(5 marks)**

You have advised Sasha and taken instructions from her, but she refuses to discontinue her claim. The trial date arrives and you attend court with counsel. The defendant and his counsel are in attendance. Sasha has not arrived at court and the judge is ready to hear the case. You last communicated with Sasha 15 days ago.

(c) Consider what the court is likely to do in the circumstances, mentioning the steps which might be taken to avert that action and what could be done in the event that the court takes the anticipated action.

**(10 marks)**

**(Total: 20 marks)**

**Turn over**

#### **Question 4**

Reference: Question relates to **Documents 5 and 6** of the case study materials.

- (a) Outline how you should respond to Dennis Princeton (**Document 5**).

**(9 marks)**

You consider the bill of costs and Verity Flintoff's note (**Document 6**).

- (b) Explain what practical and procedural steps you will now take in response to the circumstances given in **Document 6**, providing reasons for each step.

**(6 marks)**

- (c) Consider the particular factors which the court may take into account on detailed assessment of costs, given the circumstances in this scenario.

**(8 marks)**

**(Total: 23 marks)**

**End of Examination Paper**

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