

January 2022
Level 6
CIVIL LITIGATION
Subject Code L6-15

THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 15 – CIVIL LITIGATION

CASE STUDY MATERIALS

Information for Candidates on Using the Case Study Materials

- This document contains the case study materials for your examination.
- In the examination, you will be presented with a set of questions which will relate to these case study materials. You will be required to answer **all** the questions on the examination paper.
- You should familiarise yourself with these case study materials prior to the examination, taking time to consider the themes raised in the materials.
- You should take the opportunity to discuss these materials with your tutor/s either face-to-face or electronically.
- It is recommended that you consider the way in which your knowledge and understanding relate to these case study materials.

Instructions to Candidates Before the Examination

- A clean/unannotated copy of the case study materials is attached to this examination.
- You are permitted to take your own clean/unannotated copy of the case study materials and a statute book, where permitted, into the examination. You are **NOT** permitted to take any other materials including notes or textbooks.
- In the examination, candidates must comply with the CILEX Examination Regulations – Online Examinations or with the CILEX Examination Regulations – Online Examinations with Remote Invigilation.

Turn over

CASE STUDY MATERIALS

GUIDANCE FOR LEARNERS STUDYING FOR THE LEVEL 6 UNIT 15 CIVIL LITIGATION EXAMINATIONS

Learners studying for Level 6 Unit 15 Civil Litigation are advised that, when revising for this unit, they should have knowledge and understanding of the Civil Procedure Rules and of the rules of professional conduct for lawyers issued by the regulatory bodies for CILEx and the SRA.

Learners are advised that they should be fully familiar with the relevant current unit specification and may be tested on any aspect of it. Where Civil Procedure Rules are given in the specification, learners are expected to be broadly familiar with the content of those rules and their practical application, over and above familiarity with the relevant current specification, including the rules of professional conduct.

Listed below are the Civil Procedure Rules which learners may find particularly relevant to this examination:

Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents

Pre-Action Protocol for Personal Injury Claims

County Courts Act 1984

Civil Evidence Act 1995

CPR

Part 7

Part 13

Part 16

Part 17

Part 26

Part 28

Part 33

Part 35

Part 45

Part 70

Part 72

Part 73

Part 83

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ADVANCE INSTRUCTIONS TO CANDIDATES

You are a trainee lawyer in the firm of Kempstons LLP ('Kempstons') of the Manor House, Bedford, MK42 7AB. You work in the civil litigation team and your supervising partner is Tony Piratin. Your local County Court Hearing Centre is in Bedford.

You are assisting Tony Piratin in the following cases:

(1) The June's Cakes and Bakes Limited file (File Ref: TP/JCB/004/22)

Kempstons is acting for June's Cakes and Bakes Limited in connection with a claim for breach of contract that has been brought against it by Mitchells Foods. Further information concerning this case can be obtained from the following case study materials:

DOCUMENT 1 Email from June Bishop to Tony Piratin

(2) The Sanjeev Gupta file (File Ref: TP/SG/995/21)

Kempstons is acting for Sanjeev Gupta with respect to a road traffic accident that took place in September 2021. Further information concerning this case can be obtained from the following case study materials:

DOCUMENT 2 Attendance note of telephone conversation between Sanjeev Gupta and Tony Piratin

DOCUMENT 3 Letter from Sanjeev Gupta to Kempstons

(3) The Russell file (File Ref: TP/PLR/898/21)

Kempstons is acting for Lucy and Peter Russell with respect to a claim that they wish to pursue arising out of work that was done on their home by Alex Charleston and Sons. Further information concerning this case can be obtained from the following case study materials:

DOCUMENT 4 Internal memorandum from Tony Piratin to trainee lawyer

EMAIL FROM JUNE BISHOP TO TONY PIRATIN

From: June Bishop (June@JCandB.co.uk)

Sent: 5 January 2022 14:26

To: Tony Piratin (Tony.Piratin@Kempstons.co.uk)

Subject: Claim by Mitchells Foods

Status: Urgent

Dear Mr Piratin,

I was given your details by your Commercial Department, who helped me to set up my company, June's Cakes and Bakes, a couple of years ago. Unfortunately, the company has hit a bit of a problem with a contract with Mitchells Foods, and I need your urgent help with this.

The background is that my company has been expanding, as my products have become more widely known. We're still quite a small company, but I've managed to take on extra staff and to delegate some of the day-to-day running of the business to them.

I was delighted in January 2021 to be contacted by Mitchells Foods, who have some big contracts with supermarkets and specialist food shops throughout the UK, under which they supply both ingredients and finished products.

Mitchells Foods were particularly interested in the Grenadian Spice Cake that we produce. This is based on a traditional family recipe and is one of our bestsellers.

Mitchells Foods thought that this would make an ideal addition to their new 'Cakes of the World' range that they were planning to launch in the lead-up to Christmas 2021. We did, however, have some negotiation with them about the volume of production required and the ingredients that we were using. As a result, we agreed to buy the flour for the cakes from them, so that we could guarantee the standard and volume of the flour that we were using.

Eventually, we concluded an agreement under which we would supply Mitchells Foods with 5,000 Grenadian Spice Cakes a week, with the first delivery due at the beginning of September.

Initially, everything went well, as we were able to keep up with production and sales of the cakes were good. Unfortunately, however, we hit a problem at the beginning of October, as we discovered that the latest batch of flour that Mitchells Foods had supplied had gone mouldy and therefore couldn't be used. With the fuel crisis and problems with deliveries more generally, we couldn't find an immediate replacement, so had to halt production.

I contacted Mitchells Foods about this straightaway, but they were very unsympathetic and blamed us for the way that we were storing the flour. They also insisted that we could not use

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another supplier of flour, despite the problems that we had experienced with them. Unfortunately, our relationship deteriorated, and they got their legal team involved. They alleged that we had breached the contract with them and should compensate them for loss of profits.

I tried to smooth things over, but was unable to resolve matters before I went on a long-planned trip to Grenada to visit my extended family, who I hadn't seen since before the pandemic started. Before I left on 8 December, I left strict instructions with my staff to let me know if anything came in from Mitchells Foods.

I heard nothing until yesterday, when I got a panicky call from my secretary. She told me that the day after I'd gone away a letter had arrived, which was dated 6 December, with some papers from the court. No one had realised the importance of the papers, and in the rush to fulfil orders before Christmas they had just been left to one side. She looked at them properly yesterday and said that they related to the problems involving Mitchells Foods, who are claiming £50,000 in lost profits.

I can't see how they get to this figure, as this is double the losses that we suffered. As it is, I would dispute that we have breached the contract with them, but I am willing to try to see if we can resolve this amicably.

I am back in the country on Friday night, and I wondered if I could meet with you early next week to discuss this.

Kind regards

June Bishop
Managing Director

**ATTENDANCE NOTE OF TELEPHONE CONVERSATION BETWEEN
SANJEEV GUPTA AND TONY PIRATIN**

Attendance by: Tony Piratin (TP)
Client: Sanjeev Gupta
Matter: Road Traffic Accident
Date: 30 November 2021
Time in attendance: 20 minutes
Reference: TP/SG/995/21

Attending on Sanjeev Gupta concerning a road traffic accident that took place at about 8.15 am on 27 September 2021. The accident happened while Mr Gupta was driving along the A24, which is the main road through Tooting in south London. He was driving towards his office in Balham. Mr Gupta was driving a Kia hatchback with the registration number SL18 ADV.

The traffic was quite heavy but moving normally, and Mr Gupta was driving at around 20 miles per hour. The weather was dry, and visibility was good. Mr Gupta takes this route into work every day, so knows it well.

Mr Gupta had just gone past Tooting Broadway station, when a car emerged from a side road, Letchworth Street, and struck the driver's side door of his vehicle. The car which hit him was a Land Rover Discovery, registration NL20 RPB. The driver's name was Helen Dodd. Mr Gupta will email her address to me.

Mr Gupta's driver's side front door was badly damaged in the accident. He immediately felt pain in his lower back, while the impact of the collision caused him to bang his head.

Mr Gupta was shocked by what had happened and was unable to move because of the pain he was in. Fortunately, a passer-by, Lukas Stech, called an ambulance, which arrived shortly afterwards. Mr Gupta was taken to St George's Hospital, which is only a short distance from where the accident took place. Mr Stech witnessed the accident and is prepared to give a statement on Mr Gupta's behalf.

Mr Gupta was kept in hospital for the rest of the day while the doctors carried out tests on his back and his head. Mr Gupta explained that he has had some problems with his back before, but these have been made worse by the accident.

Mr Gupta has subsequently been to his GP, who has recommended a course of physiotherapy. His GP estimated that the symptoms relating to the accident will subside over the next two to three years. In the meantime, Mr Gupta is still experiencing some pain in his back, and his mobility is restricted as his back feels stiff and painful when he twists to one side or the other.

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Mr Gupta is also experiencing headaches from time to time. His GP is unable to say whether this is related to the accident but is keeping this under review.

Mr Gupta is 45 and his date of birth is 24 June 1976. He is generally fit but had to take three weeks off work due to the pain he was in after the accident. He is an assistant accountant, earning £52,000 a year. His firm has a limited sick pay scheme, so he was only paid half of his normal earnings while he was off work. He therefore lost around £1,000 in wages after tax. With other expenses, he estimates that he has lost in the region of £3,000 as a result of the accident.

Mr Gupta has returned to his normal working hours but is finding it difficult to stay seated for any length of time. This is affecting his productivity at work. His employers are, however, being quite sympathetic and so are allowing him to get up and walk around when he needs to. He is also having to take painkillers most days.

Mr Gupta wants to instruct us to make a claim on his behalf. TP advised Mr Gupta in general terms as to how the case will progress from here. TP will write to Mr Gupta, confirming his advice and the next steps to be taken in the case.

LETTER FROM SANJEEV GUPTA TO KEMPSTONS

Kempstons LLP
The Manor House
Bedford
MK42 7AB

Ref: TP/SG/995/21

Dear Mr Piratin,

Thanks for sending me the Defence. I have prepared some comments on it, which I'll send to you separately.

In the meantime, I've got some news for you about my headaches. As you know, my doctor has been keeping this under review but, as the headaches have continued for several months, he has referred me to a specialist at the local hospital.

I had my appointment yesterday and the specialist said that my headaches are related to the accident. More importantly, she thought that there was a real chance that I might develop epilepsy in the future.

Obviously, I'm worried about this, and the doctor has tried to reassure me that it might not happen. I do wonder, though, what this means for my case?

Many thanks,

Sanjeev

INTERNAL MEMORANDUM FROM TONY PIRATIN TO TRAINEE LAWYER

The Russell file (File Ref: TP/PLR/898/21)

I will need your help with a case that I am pursuing on behalf of Lucy and Peter Russell. The couple own a three-bedroomed cottage in Kempston. This is an historic property, which is well known in the local area. Given its age, the property is, however, quite small and in order to create more space, the couple obtained planning permission to build a basement kitchen.

The couple arranged for Alex Charleston and Sons to do this work for them at a cost of £60,000. This price included both the work and the materials.

By all accounts, Alex is a bit of a local character, who drives a vintage Rolls-Royce and lives in a large house on the edge of Kempston which he built himself out of the profits of his business. Alex and his sons are in partnership together, but essentially Alex is the main person in the business.

Work started in May 2021 and was due to finish in August. Everything went smoothly for the first couple of months, but a problem arose at the beginning of July. Alex wanted to depart from the agreed plans and use less expensive materials for the kitchen units. He explained that this would give a better look than the specifications in the plan.

Lucy and Peter objected to this, but Alex was insistent. He argued that he was an experienced builder and that they should just take his advice on the matter. Apparently, the dispute escalated quite quickly and culminated in a stand-up row, with Alex shouting at Peter: 'You people think you're something special, but my business is worth a fortune because I know what I'm doing'. Alex then left the job and hasn't returned since.

The Russells have tried to persuade him to come back, but he has refused. Indeed, he has insisted that they owe him money for the work that he has done so far. The Russells deny this, as they paid half of the price as a deposit. They then set up a standing order for £5,000 a month to go into the bank account for Alex Charleston and Sons. They were due to pay any outstanding balance once the work was completed. The Russells have confirmed that they stopped the standing order after the work halted.

The Russells are desperate to have the work finished and so have consulted another local builder, who estimates that it will cost £30,000 to finish off the work.

I've followed the Protocol procedure and have tried to resolve the matter without success, as the defendant has continued to argue that it is owed money.

End of Case Study Materials