



## 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.**

## Question 1

Reference: Question relates to **Document 1** of the case study materials.

It is the Monday after your firm received the email from June Bishop. She has an appointment to see Tony Piratin on Wednesday but has contacted you as a matter of urgency. She has received an order from the court, informing her that Mitchells Foods obtained judgment against June's Cakes and Bakes on 6 January.

- (a) Explain what application you would now make and the arguments you would raise in support of your application.

***(12 marks)***

Your application is successful and the matter proceeds. The court gives permission for both parties to obtain expert evidence in relation to the cause of the problems with the flour.

- (b) Describe the directions the court might give to deal with any differences of opinion that might arise between the experts.

**[NOTE TO CANDIDATES: You are NOT required to draft the directions.]**

***(8 marks)***

***(Total: 20 marks)***

## Question 2

Reference: Question relates to **Documents 2 and 3** of the case study materials.

On the basis of the information that you have obtained from Mr Gupta, you assess general damages at around £7,000, with the claim in total being worth in the region of £10,000.

With Mr Gupta's agreement, you complete and send a Claim Notification Form to Helen Dodd's insurer. In its response to the Claim Notification Form, the insurance company states that its insured will accept primary liability but alleges contributory negligence on Mr Gupta's behalf. It alleges that he had flashed his lights as if to allow traffic out from the side road and then drove into its insured's path.

- (a) Explain what steps both parties should now take prior to the commencement of court proceedings.

**(11 marks)**

You are unable to settle the matter with the defendant and so decide to start proceedings.

- (b) Explain, with reasons, in which court you would start proceedings and the documents you would send to the court in order to do so.

**(9 marks)**

The case is issued and in their defence the defendant continues to allege contributory negligence. You send the defence to Mr Gupta, so that he can give you his instructions on it.

Mr Gupta then sends you a letter concerning his headaches [**Document 3**]. You successfully apply to the court for permission to obtain further medical evidence. The doctor's report concludes that the headaches are related to the accident and that there is a 30% chance that Mr Gupta will develop epilepsy as a result of the accident.

- (c) Explain the actions that you will take in light of the doctor's conclusions.

**(10 marks)**

**(Total: 30 marks)**

**Turn over**

### Question 3

Reference: Question relates to **Documents 2 and 3** of the case study materials.

You take the necessary action with respect to the medical evidence and start to prepare for exchange of witness statements. You therefore write to Lukas Stech, who saw the accident and called the ambulance for your client.

You advise Mr Stech that exchange will be taking place and that you will need him to attend the trial in line with the signed statement that you took from him in the first week of December.

Unfortunately, you receive a letter shortly afterwards from his wife, explaining that Mr Stech died two weeks ago.

(a) Describe what steps you would take in order to rely on Mr Stech's evidence at the trial.

**(11 marks)**

You take the necessary steps, and the matter comes to trial.

(b) Explain how the court would view the evidence provided by Mr Stech.

**(10 marks)**

**(Total: 21 marks)**

#### Question 4

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

You issue proceedings on behalf of your clients, Lucy and Peter Russell, to claim the additional £15,000 above the original price that they will now have to pay to the new builder. Alex Charleston and Sons defend the case on the basis that the Russells refused to allow them to continue the job. They also make a counterclaim for £5,000, which they allege is the amount outstanding on the work that they have done to date.

You email the defence and counterclaim to the Russells, to obtain their instructions on it. In their response, they ask you how much longer the case will take.

- (a) Explain what advice you would give to the Russells about the likely future progress of the case and the possible maximum timescale involved.

**(10 marks)**

All directions have now been complied with and the case is ready for trial. Your clients contact you, as they are concerned about how much more the case will cost.

- (b) Explain what your advice would be to the Russells about the costs of the trial.

**(6 marks)**

The Russells win at trial. It is now six weeks later, and, in breach of the court's order, the defendant has still not paid the judgment sum. The Russells are desperate to receive this money, so that they can get the work done and move on.

- (c) Advise the Russells of the methods available to recover this judgment sum and identify which might be more appropriate.

**(13 marks)**

**(Total: 29 marks)**

**End of Examination Paper**