



## THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

### UNIT 10 – RESOLVING A COMMERCIAL DISPUTE IN ENGLAND AND WALES\*

**Time allowed: 1 hour and 30 minutes plus 30 minutes' reading time**

#### **Instructions to Candidates**

- You have been provided with a copy of the supporting materials for you to use in this examination.
- You have **THIRTY** minutes to read through the supporting materials and this question paper before the start of the examination.
- **It is strongly recommended that you use the reading time to read the supporting materials and this question paper fully.** However, you may make notes on the supporting materials, 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 qualification: **LEVEL 4 DIPLOMA IN COMMERCIAL LITIGATION**

## **Question 1**

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

After his meeting with Sanita, Milo tells you that he is concerned about costs.

- (a) Advise Milo how the overriding objective will govern the court's approach to the case in relation to the issue of costs.

**(10 marks)**

- (b) Explain to Milo why the 'Pre-Action Letter' (**Document 2**) fails to comply with the Practice Direction on Pre-Action Conduct.

**(5 marks)**

**(Total: 15 marks)**

## Question 2

Reference: Question 2 relates to **Documents 1 and 3** of the supporting materials.

You have responded to the Pre-Action Letter on Milo's behalf, but attempts at settlement have failed. Proceedings have been issued.

(a) Explain which is the correct court for the claim. **(3 marks)**

(b) State, in respect of each of the following paragraphs of the Particulars of Claim (**Document 3**), whether you would **admit, deny, or neither admit nor deny** the allegation on behalf of Milo:

- (i) Paragraph 1.
- (ii) Paragraph 2.
- (iii) Paragraph 3.
- (iv) Paragraph 6.

**(4 marks)**

(c) Identify the correct section, Act and year in respect of the claim for interest in paragraph 8 of the Particulars of Claim (**Document 3**).

**(2 marks)**

**IMPORTANT: ANSWER QUESTIONS 2(b) AND (c) IN YOUR ANSWER BOOKLET**

The Particulars of Claim were served together with the Claim Form on 10 June 2016.

(d) Identify the steps that the Defendant must take to respond to service of the Particulars of Claim, including the relevant dates.

**(6 marks)**

**(Total: 15 marks)**

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### Question 3

Reference: Question 3 relates to **Documents 1 and 3** of the supporting materials.

- (a) Explain what the 'normal track' is for Raheema's claim and how the court will decide whether it is appropriate.

**(8 marks)**

After allocation, the court gives a direction for standard disclosure.

- (b) Explain who is required to conduct the search for documents.

**(2 marks)**

- (c) Explain what the disclosure statement is.

**(4 marks)**

**(Total: 14 marks)**

### Question 4

Reference: Question 4 relates to **Document 1** of the supporting materials.

- (a) Explain which witness(es) of fact you would advise Milo to call at trial.

**(4 marks)**

- (b) Explain how many expert witnesses are likely to give evidence on Milo's behalf.

**(3 marks)**

- (c) Explain how you would identify (an) appropriate expert witness(es).

**(5 marks)**

- (d) Identify **three** documents which the court may require the parties to prepare in advance of the trial, in addition to the contents of the trial bundles.

**(3 marks)**

**(Total: 15 marks)**

## Question 5

Reference: Question 5 relates to **Document 4** of the supporting materials.

The trial has now taken place and judgment has been entered for the Claimant. You have made a note of the District Judge's Order (**Document 4**).

- (a) Identify who will draw up the order. **(2 marks)**
- (b) Identify what other information the order must contain, apart from the terms of the order made. **(3 marks)**
- (c) Identify and explain the date by which Milo must comply with the order. **(3 marks)**
- (d) (i) Identify the rate at which interest runs on the judgment debt. **(1 mark)**
- (ii) Identify the period for which interest will run. **(2 marks)**

**(Total: 11 marks)**

**End of Examination Paper**

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