



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 6 – DAMAGES, SETTLEMENT AND COSTS IN PERSONAL INJURY CASES*

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 qualifications: **LEVEL 4 DIPLOMA IN PERSONAL INJURY LITIGATION** and **LEVEL 4 EXTENDED DIPLOMA IN PERSONAL INJURY LITIGATION**

Question 1

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

- (a) Explain to Spencer how you will approach evaluating an appropriate general damages award for his injury.
(5 marks)
- (b) Explain whether Spencer's incapacity to play tennis is relevant to his claim for damages.
(3 marks)
- (c) (i) Advise Spencer why it is necessary to issue proceedings if he wishes to recover interest on his general damages.
(2 marks)
- (ii) State the relevant rate of interest that is recoverable at present in respect of general damages.
(1 mark)
- (d) Explain whether it will be necessary for the Compensation Recovery Unit to be notified of Spencer's claim.
(5 marks)

(Total: 16 marks)

Question 2

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

- (a) Identify the purpose of a claim for special damages. **(2 marks)**
- (b) Explain to Spencer why the contents of the invoice from Gloclean may be challenged by the defendant. **(6 marks)**
- (c) (i) Advise Spencer whether, in principle, it will be possible to make a claim for the assistance provided to him by his brother. **(3 marks)**
- (ii) Advise Spencer whether the proposed hourly rate suggested by his brother is a suitable basis for calculating his claim for assistance. **(5 marks)**

You are asked by Alexandra, your supervisor, to draft a schedule of loss to accompany the particulars of claim. One of the heads of claim, which she asks you to include, is the claim for the physiotherapy charges, including interest.

- (d) (i) Calculate, showing your working, the claim for the physiotherapy charges. **(2 marks)**
- (ii) Explain what rate(s) of interest will apply.

You are not required to calculate the amount of interest.

(5 marks)

(Total: 23 marks)

Turn over

Question 3

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

Your supervisor asks you to calculate Spencer's future loss of earnings. She tells you that you will first need to work out the multiplicand and she mentions Spencer's residual earning capacity. She says that she expects the trial to take place in September 2017.

- (a) (i) Explain what is meant by the term 'residual earning capacity'.
(2 marks)
- (ii) Explain how you will arrive at a suitable **multiplicand** to begin calculation of Spencer's claim for future loss of earnings.

You may use calculations if this is helpful to support your answer. You should ignore any tax or National Insurance.

(7 marks)

- (b) Explain how you will arrive at a suitable **multiplier** to finalise calculation of Spencer's claim for future loss of earnings.

(7 marks)

(Total: 16 marks)

Question 4

Reference: Question 4 relates to **Document 3** of the supporting materials.

Proceedings are issued. Negotiations are entered into, further to which the defendant's solicitors write to your firm (**Document 3**).

- (a) Explain why the offer contained in the letter from the defendant's solicitors (**Document 3**) does not put Spencer at risk of paying the defendant's costs.
(5 marks)
- (b) Advise Spencer how he may become at risk of paying the defendant's costs.
(5 marks)

(Total: 10 marks)

Question 5

Reference: Question 5 relates to **Document A** at the end of this question paper.

After further negotiation, a settlement is reached without admission of liability. The defendant agrees to pay Spencer the sum of £40,000 in damages. Your supervisor provides you with a partially completed Tomlin Order template (**Document A**).

Draft on the Order (**Document A**), correctly selecting **either** location **(A)** or **(B)**, suitable wording for a costs order to ensure that Spencer recovers his costs.

(5 marks)

IMPORTANT: Write your candidate number clearly in the space provided on Document A and attach this question paper securely to the inside of your answer booklet.

DOCUMENT A

EXTRACT FROM TOMLIN ORDER – to be used with Question 5

IMPORTANT: Write your candidate number clearly in the space provided above and attach this question paper securely to the inside of your answer booklet.

BETWEEN

Spencer Fellows (Claimant)

and

Brite and Lite (a firm) (Defendant)

ORDER

Dated

UPON the claimant and defendant having agreed to the terms set out in the Schedule attached hereto

IT IS ORDERED THAT:

- 1. all further proceedings in this claim be stayed except for the purpose of carrying such terms into effect
- 2. the parties have liberty to apply

(A).....
.....

SCHEDULE

- 1. The claimant agrees to accept the sum of £40,000 in full and final settlement of all claims save for costs set out in this matter inclusive of interest.
- 2. The said sum of £40,000 shall be paid within 28 days from the date of this order.

(B).....
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End of Examination Paper

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