

**SUPPORTING MATERIALS**

16 June 2017  
Level 4  
PREPARATIONS FOR PERSONAL INJURY  
TRIALS  
Subject Code L4-9



**THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES**  
**UNIT 9 – PREPARATIONS FOR PERSONAL INJURY TRIALS\***  
**SUPPORTING MATERIALS**

**Information for Candidates on Using the Supporting Materials**

- This document contains the supporting materials for your examination.
- You have **THIRTY** minutes' reading time to read these supporting materials and the question paper.
- It is strongly recommended that you use the reading time to read these supporting materials and the question paper fully. However, you may make notes on these supporting materials, the question paper or in your answer booklet during this time, if you wish.

**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**

## SUPPORTING MATERIALS

### INSTRUCTIONS TO CANDIDATES

You are working in the Employers' Liability team of Kempstons, The Manor House, Bedford, MK42 7AB. You are working under the supervision of one of the Partners, Oluchi Oduwole.

Mrs Oduwole wants to give you experience of all different types of work and has therefore asked you to assist her with two files. In the first file you are acting for the claimant, Enda Stephens who fractured his wrists in an accident at work.

Mr Stephens had already had an initial interview with Kempstons and a proof of evidence has been prepared for him. Mr Stephens has subsequently contacted the company with further information about his case (**Documents 1, 2 and 3**).

In the second file you are acting for the defendant, Carrion Castings Limited (CCL), with respect to a serious injury which was suffered by one of their employees, Robert Albiston. You have received instructions from CCL's insurers, Wyatt Harding Insurance Limited (**Document 4**).

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|-------------------|--|
| <b>Document 1</b> | Proof of Evidence of Enda Liam Stephens                    |
| <b>Document 2</b> | Attendance note of telephone conversation with Mr Stephens |
| <b>Document 3</b> | Letter from Mr Stephens                                    |
| <b>Document 4</b> | Email from Wyatt Harding Insurance                         |

DOCUMENT 1

PROOF OF EVIDENCE OF ENDA LIAM STEPHENS

1. My name is Enda Liam Stephens of 35a Quarry Lane, Kempston, Bedfordshire, MK42 8YT. My date of birth is 23 March 1997. I am the head web designer in the marketing department of Principal Foods Limited of 55–70 Longton Lane, Kempston, Bedfordshire, MK42 3ED. I had an accident at work on 18 April 2017 which resulted in serious injuries to both of my wrists.
2. The accident happened on the main staircase in the marketing and administration building of Principal Foods' headquarters on Longton Lane. I was going up the staircase between the first floor and second floor. I was going from my office, which is on the ground floor, to the board room on the third floor for an important meeting with a client.
3. I put my foot on the third step in this flight of stairs when it gave way beneath me and I fell forwards. I instinctively put my arms out in front of me, to break my fall. Unfortunately, I fell awkwardly and as a result, broke both of my wrists quite badly.
4. The Head of Marketing, Temitayo Bakare, was walking immediately behind me when the accident happened. He heard a crack in my wrists and realised immediately that there was something wrong. He made me comfortable and then went to an office on the second floor to call an ambulance.
5. I should explain that the staircase we were on was put in last year as part of a refurbishment of the marketing and administration building. We see a lot of clients in this building and so the company had modernised it in order to make it more appealing. The staircase was a central part of this refurbishment. The staircase steps are secured on either side by steel bolts.
6. As this is the main staircase it gets a lot of use and so, although it is relatively new, it is regularly maintained. Indeed, the company had replaced some of the bolts for the steps in the week before my accident. I understand that this has formed the focus of the investigation into my accident. I have not returned to work yet and I do not know what the result of this investigation has been.
7. Immediately after the accident I was taken to Kempston General Hospital. I saw a doctor almost instantly, as the nurse could tell that I was in a lot of pain and my wrists had begun to swell. The doctor carried out a couple of x-rays and told me that I had suffered a number of fractures in both wrists. My left wrist was particularly badly damaged.
8. I was operated on straight away. The doctors were worried about the alignment of the bones in my wrists and put a plate and screws into both wrists. They stabilised the wrists by means of devices called fixators. This is a metal frame outside of the body which is used to keep the bones in place.
9. I still have the fixators on but they are due to be removed at the end of June. My doctor has indicated that I will then have a period of intensive physiotherapy.

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If that does not restore full movement to my wrists, I may then have to have another operation and a further period of rehabilitation.

10. The injuries have seriously affected my capacity for work. As a web designer, I use a keyboard and computer all day. Although I can move my fingers, I have tried working on the keyboard at home and it becomes painful for me to do so within a few minutes. I just do not have the strength in my wrists to do this now.
11. The company have not been particularly helpful to me. Although there is a sick pay scheme, the amount that you get is based on how long you have worked for Principal Foods. As I have only been there for six months, I have only received a month's pay. Therefore, I am now on Statutory Sick Pay of £90 per week. I was previously earning £3,400 per month, so this is a big loss of earnings for me. The company are also concerned about my long-term position with them given my continuing absence and the lack of a clear prognosis from my doctor.
12. My personal life has also been affected. I am a single man and was quite self-sufficient before my accident. I have been unable to do even basic tasks around the flat and I have had to rely on friends and family for assistance. As this has not been working, I have now moved back in with my mum. The most embarrassing aspect of this is that, as I have to avoid getting the fixators wet in case I get an infection, my mum has to help me wash myself.
13. My social life has also been affected by the accident. I used to play badminton at county level for Bedfordshire, but have not been able to do any exercise since the accident. As a result, I am feeling physically weak which has also had an effect on my mental state. I have felt quite low since the accident.
14. I am very angry with the way that I have been treated by Principal Foods. The Human Resources department have been in contact about my sick notes. The Safety Officer has also rung me to find out how the accident happened. Other than that, I have not heard anything and no-one has apologised for the accident, despite it clearly being their fault. I have therefore decided to pursue a claim against them.

Signed: *Enda Stephens*

Dated: 30 May 2017

**ATTENDANCE NOTE OF TELEPHONE CONVERSATION BETWEEN OLUCHI  
ODUWOLE AND ENDA STEPHENS**

**Client:** Enda Stephens  
**Matter:** Accident at work  
**Date:** 19 June 2017  
**Fee earner:** Oluchi Oduwole  
**Time taken:** 2 units

Oluchi Oduwole taking a call from the client. Mr Stephens had found out more information about his case over the weekend. He had gone out for a meal with his parents when he bumped into Temitayo Bakare.

Temitayo indicated that the company's insurance company had carried out an investigation into the accident. Although Temitayo did not know the results of the investigation, the bolts on the stairs had all been replaced. There were rumours going around the company that the wrong bolts had been fitted to the stairs in the week before the accident.

Mr Stephens asked if we could look into this further.

*Turn over*

LETTER FROM MR STEPHENS

c/o 75 Hampton Drive  
Kempston  
Bedfordshire  
MK42 7YZ  
21 August 2017

Ref: EL/STE/OO/24/4/17

Dear Mrs Oduwole

**My case**

Thank you for updating me on my case. I am very pleased with the progress that you have made on my behalf. I am afraid, however, that we might have to delay things as my medical position is still unclear.

I went to see the doctor the other day as I am still having problems with pain and mobility in my wrists. The doctor has said that I need further treatment and possibly a further operation. He thinks it will be another six months before he can give me a clear idea of what the future prognosis is.

I understand what he is saying, but I am worried about the impact that this will have on the settlement of my case. As you know I have lost over £10,000 in wages and I am really struggling financially, even though I am living with my mother.

Is there anything you can suggest as I am worried that I'll have to sell my flat? I have not been able to pay the mortgage and the mortgage company have been contacting me regarding late payments. Due to my current financial position, I need some money as soon as possible.

Many thanks

Enda

**EMAIL FROM WYATT HARDING INSURANCE TO OLUCHI ODUWOLE**

To: Oluchi Oduwole  
From: Peter Wyatt  
Sent: 8 June 2017  
Subject: Carrion Castings Limited  
Status: High

Dear Oluchi,

I hope all is well with you. I need your company's assistance with an employer's liability matter involving our insured client, Carrion Castings Limited (CCL).

There is some urgency in the matter as proceedings were issued on the 30 May. The claimant's solicitors served the Claim Form and the Particulars of Claim, posting them first class the following day. They have complied with the necessary requirements when serving proceedings.

CCL have been quick at dealing with the correspondence in this case and so sent me the papers straight away. Unfortunately, I was on holiday last week and my assistant did not deal with them in my absence.

I have attached the file of papers from which you will see that our clients are going to vigorously defend the claim. It is their belief that the claimant, Robert Albiston, has brought this accident upon himself.

Mr Albiston is a cleaner at the company. On 8 April 2016 he was cleaning iron filings and excess oil from one of the lathes. This is a regular part of his role as the lathes do often get clogged up with waste such as this.

As he was cleaning the lathe, he knocked the start button on the lathe and his arm got pulled into it. This caused severe injuries to his right forearm. Although he was taken to hospital immediately, the injuries were too serious and his arm had to be amputated just above the elbow.

We have been in correspondence with Mr Albiston's solicitors since July 2016. Their case is that CCL exposed their client to an unsafe system of work and that the machine should have been fenced off or otherwise made safe before their client worked on it.

Our case is that their client did not follow the instructions that were given to him. These were to the effect that the machine should have been switched off at the mains before Mr Albiston began to work on it. If he had done this rather than simply use the off button on the machine itself, the machine would not have started up.

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Mr Albiston's solicitors have not addressed this point directly in the Particulars of Claim but instead have indicated that their client was following normal practice when he was carrying out the job. This is something that we would like you to follow up with them.

Also they have not produced any evidence to support their allegation that the system of work was unsafe. That being said, they have indicated in correspondence that they would like to arrange for an expert to inspect the machine involved in the accident.

The issues around quantum are fairly clear and so we might be able to agree a figure for that in due course.

As I say, you have the full file of papers but given the value of this case, please do contact me immediately if you have any questions.

Peter

**End of Supporting Materials**