



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.

* This unit is a component of the following CILEX qualifications: **LEVEL 6 CERTIFICATE IN LAW, LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE** and the **LEVEL 6 DIPLOMA IN LEGAL PRACTICE**

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Question 1

Reference: Question relates to the Advance Instructions to Candidates and **Document 1** of the Case Study Materials.

Mr Turner wants to know whether he has a cause of action against the suppliers of the air conditioning units.

- (a) Explain the nature of the cause of action that Turner Engineering Limited may have.

(7 marks)

In the attendance note, Mr Turner mentioned that he wants to act quickly – ‘to get the matter sorted’ – and not waste time before issuing proceedings.

- (b) State the advice you would give to Mr Turner in response to this, giving your reasons.

(11 marks)

- (c) State briefly what funding options may be available to your client company in this case, and whether they are likely to be available, giving reasons for your answer.

(8 marks)

(Total: 26 marks)

Turn over

Question 2

Reference: Question relates to the Advance Instructions to Candidates and **Document 2** of the Case Study Materials.

This action is proceeding on quantum only, as Mr Chato's employers have admitted liability and accepted that they are liable for the actions of their other employee who was in the car when it lurched forward and crushed Mr Chato's legs.

In the proceedings to make this case ready for a hearing on quantum, directions have been given that each party may file their own medical expert evidence.

Considering the facts you have concerning this case and that the court has permitted both parties to adduce a medical expert evidence at the hearing:

- (a) Draft the part of the Directions Order that concerns expert evidence and how that evidence is to be managed, that may have been made in this case.

Note to candidates: You must draft **only** that part of the Directions Order requested – that dealing with expert evidence and how it is to be managed. If you feel that the court would have set down names or dates in the Directions Order you may state these as 'Mr xxx' or 'by the xx day of xxx'.

(12 marks)

The defendant's medical report in this case (**Document 2**) is unfavourable for your client and its conclusions are markedly different from your client's own medical expert report that you have already received.

- (b) State the advice you would give to your client in light of the unfavourable medical report received from the defendant.

Note to candidates: For this examination, you do **not** have Mr Chato's own medical expert's report. Although you do not have this report, you may refer to its existence in your answer.

(11 marks)

- (c) Explain the meaning of the case 'proceeding on quantum only' **and** the admission by the defendant that it is liable for the actions of its employee, Julie Lake.

(6 marks)

(Total: 29 marks)

Question 3

Reference: Question relates to the Advance Instructions to Candidates and **Documents 3, 4 and 5** of the Case Study Materials.

- (a) Explain, with reasons, which litigation process, court and track would be used, if a claim were brought by Patricia Scott.

(8 marks)

- (b) Explain any evidential issues that arise in respect of **Document 4**. You should restrict your answer to content rather than format. You may include reference to the relevant CPR.

(8 marks)

Refer to **Document 5** – a letter from Kempston’s to the claimant’s legal representative.

- (c) Identify and explain the purpose of **Document 5**, and explain how it would be dealt with in litigation if the case proceeded and if your client company were successful in defeating the claimant’s claim.

(8 marks)

(Total: 24 marks)

Turn over

Question 4

Reference: Question relates to the Advance Instructions to Candidates and Sofa World Limited.

In this matter, you have sent a letter before claim which has been ignored. You are instructed to issue proceedings and arrange personal service of the action. This involves several steps that need to be taken by you.

- (a) State what you will send to court to issue proceedings, and how proceedings will be served on Mrs Green.

(6 marks)

Proceedings were served on 2 May 2017. It is now 22 May 2017. No response has been received by the defendant.

- (b) State and explain the advice you will now give to your client and the step that you should take.

(5 marks)

On 30 May 2017, Mrs Green rings you. She states that she did receive the proceedings, but was then involved in a road traffic accident and has been in hospital. She states that this is her first opportunity to deal with the claim. After this call you telephone Mr Max Folders to inform him of this development and to inform him of the step Mrs Green might now take.

- (c) Explain what Mrs Green may now do, if she wishes to defend the claim. Your answer should include an explanation of the procedure to be followed and what Mrs Green would need to establish in order to succeed in that application.

(10 marks)

(Total: 21 marks)

End of Examination Paper

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