

CASE STUDY MATERIALS

June 2019
Level 6
CIVIL LITIGATION
Subject Code L6-15



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 15 – CIVIL LITIGATION*

CASE STUDY MATERIALS

Information for Candidates on Using the Case Study Materials

- This document contains the case study materials for your examination.
- In the examination, you will be presented with a set of questions which will relate to these case study materials. You will be required to answer **all** the questions on the examination paper.
- You should familiarise yourself with these case study materials prior to the examination, taking time to consider the themes raised in the materials.
- You should take the opportunity to discuss these materials with your tutor/s either face-to-face or electronically.
- It is recommended that you consider the way in which your knowledge and understanding relate to these case study materials.

Instructions to Candidates Before the Examination

- You will be provided with a clean copy of the case study materials in the examination.
- You are **NOT** permitted to take your own copy of the case study materials or any other materials including notes or textbooks except a Statute Book, where permitted, into the examination.
- In the examination, candidates must comply with the CILEx Examination Regulations.

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* 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**

CASE STUDY MATERIALS

**GUIDANCE FOR LEARNERS STUDYING FOR THE LEVEL 6 UNIT 15
CIVIL LITIGATION EXAMINATIONS**

Learners studying for Level 6 Unit 15 Civil Litigation are advised that, when revising for this unit, they should have knowledge and understanding of the Civil Procedure Rules and of the SRA Code of Conduct.

Learners are advised that they should be fully familiar with the relevant current unit specification and may be tested on any aspect of it. Where Civil Procedure Rules are given in the specification, learners are expected to be broadly familiar with the content of those rules and their practical application.

Listed below are the professional rules of conduct and Civil Procedure Rules which learners may find particularly relevant to this examination:

SRA Code of Conduct

The Principles

Chapter 3

Chapter 4

Civil Procedure Rules

Pre-Action Protocols

Part 1

Part 3

Part 8

Part 16

Part 18

Part 21

Part 23

Part 24

Part 25

Part 36

Part 40

Part 44

Part 70

Part 71

ADVANCE INSTRUCTIONS TO CANDIDATES

You are a trainee lawyer in the firm of Kempstons LLP (Kempstons) of the Manor House, Bedford, MK42 7AB. You are in the civil litigation team and your supervising partner is Louise Delaney. Your local County Court Hearing Centre is situated in Bedford.

You are assisting Louise Delaney in the following cases:

1. All Stars Academy Foundation Ltd (file ref: ASA/AT/78/19)

Perry Gibbs met with Louise Delaney last month. He is employed as the head teacher at All Stars Academy, a secondary school, owned by the All Stars Academy Foundation Ltd. A letter of claim, dated 30 April 2019, had been received from Jacques and Russell LLP, the solicitors acting on behalf of a pupil, Charlie Higgins. On 2 November 2018, Charlie had been injured at the school by another pupil during the lunch break. The solicitors have asked that liability be admitted. The letter has not yet been acknowledged by the Academy, although its insurers are aware of it. An attendance note was prepared following the meeting (**Document 1**). The letter of claim does not form part of these materials. Subsequent communications take place (**Documents 2, 3 and 4**).

2. Fred Grassington (file ref: FG/LD/43/19)

Fred Grassington is a long-standing and very wealthy client of the firm. He is a builder and has become involved in a boundary dispute with Philip Robbins, the owner of land adjacent to the land on which Fred is currently building. The dispute centres on the extent of ownership of a strip of land, which is situated along the border between the two properties. Fred believes that the strip of land belongs to him and he wants to erect his buildings up to and including the strip of land. Philip is adamant that the strip of land is his and he wants to erect a fence to include it within his property. Yesterday, Philip began erecting the fence, which puts the strip of land on Philip's side. The fence prevents Fred from continuing his building works. The strip of land is 100 metres long and, so far, a 10-metre section of fence has been erected. Philip's actions have caused damage to a natural stream on Fred's land. Fred seeks your urgent advice. **There are no documents with this file, as it is a new matter.**

3. Talia Kaur (file ref: TK/AT/53/19)

The firm acts on behalf of Talia, who was injured at the house of Rahul Thandi, when she attended a house-warming party. She was badly burnt, when the hot water tap in the kitchen sink came away in her hand, spraying scalding water over her face and upper body. County Court proceedings have been issued and were deemed served on 7 June 2019, including the particulars of claim. The claim is likely to be allocated to the multi-track, given the severity of the injuries. On 19 June 2019, Rahul, who is a litigant in person, sends a short email to Kempstons (**Document 5**). A further relevant communication is received from Rahul on 19 December 2019 (**Document 6**).

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DOCUMENT 1

Attendance note

Attendance on: Perry Gibbs
Attended by: Louise Delaney
Date: 14 May 2019
Time taken: 1 hour 30 minutes

Perry Gibbs has seen the letter of claim from Jacques and Russell LLP regarding Charlie Higgins' accident. There is no dispute that the incident in question occurred on 2 November 2018. Geo Paden, then aged 11, was in the playground with Charlie. Geo was known to be extremely boisterous and was receiving treatment for Attention Deficit Hyperactivity Disorder. Geo had brought into school a packet of sparklers. This was contrary to the school's warning, issued in assembly, that fireworks of any description were not to be brought into school because of the risk of injury. Geo's form teacher, Mr Joshua Barron, had known that Geo had brought the sparklers into school, as Mr Barron had confiscated the sparklers during a lesson and placed them in his unlocked desk drawer in the form room. At the lunch break, Geo removed the sparklers from the drawer and took them into the playground. Using matches, Geo lit a sparkler and, in the course of playing, poked it into Charlie's face, causing a serious injury to Charlie's eye, as part of the sparkler broke and embedded in Charlie's eyeball.

Apparently, Charlie's solicitors have received evidence from another pupil, a sixth form student, that Geo had been running around the playground with the sparklers for at least ten minutes prior to the incident involving Charlie. Olive Martin, who was on duty as the only playground supervisor for 240 pupils, was seen to be speaking on her mobile phone in the far corner of the playground and had made no effort to stop Geo doing what he was doing. This was new information for Mr Gibbs. He had spoken to Olive after the accident and she had said that she had not noticed anything out of the ordinary in the playground, and her attention had not been drawn to Geo for any reason. Olive is no longer employed by the Academy as, in January 2019, she was dismissed for stealing and now lives in Morocco.

It is accepted that the injury to Charlie's eye was serious. Mr Gibbs confirmed that he had travelled in the ambulance with Charlie to the A&E Department. Mr Gibbs tells me that Charlie lost his sight for a period of one week, due to blood collecting inside the eyeball. Charlie returned to school at the beginning of the spring term in January 2019. The preliminary indications are that Charlie's eyesight has been permanently affected by the injury and he now requires glasses; his eye is always at risk of infection.

I informed Mr Gibbs that my view is that damages will be significantly in excess of £25,000. I said that I would consider all of the facts again and report to the Academy's insurers with my advice on liability.

Louise Delaney

DOCUMENT 2

Telephone attendance note

Attendance on: Perry Gibbs
Attended by: Louise Delaney
Date: 14 May 2019
Time taken: 10 minutes

Later in the afternoon, following our meeting, Mr Gibbs telephoned and told me that he has been finding it very difficult to deal with the consequences of the incident. He feels guilty about what has happened to Charlie, but says that the Academy has not supported him, and he feels that he is at risk of dismissal. This is causing him to become increasingly stressed and for which he has sought medical advice.

He would like to bring a claim against his employer in an employment tribunal in relation to its behaviour towards him. He said that he will pay our fees privately and asked to be referred to the firm's specialist employment team. I said I will speak to the head of the employment team and see when she is able to arrange an appointment.

Louise Delaney

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DOCUMENT 3

Letter from Jacques and Russell LLP to Kempstons LLP

Jacques and Russell LLP
Grove House
Bedford
MK42 7XY
Telephone: 01845 7865987

Kempstons LLP
Manor House
Bedford
MK42 7AB

Our ref: Higgins/01/2019
Your ref: **ASA/AT/78/19**

19 August 2019

Dear Sirs,

Your client: All Stars Academy Foundation Ltd
Our client: Charlie Higgins (through his litigation friend Mabel Higgins)

Without Prejudice save as to costs

Further to correspondence in this matter and now that we have the benefit of the medical report, we are instructed to negotiate a settlement of this claim.

We are instructed to make an offer of £65,000 pursuant to Part 36 of the Civil Procedure Rules 1998. The offer is a claimant's Part 36 offer. If the offer is accepted within 21 days of service of this notice, the defendant will be liable for the claimant's costs in accordance with rule 36.13. The offer is to settle the whole of the claim.

We look forward to hearing from you.

Yours faithfully,

Sylvester Jacques

on behalf of Jacques and Russell LLP

DOCUMENT 4

Letter from Kempstons LLP to Jacques and Russell LLP

Kempstons LLP
Manor House
Bedford
MK42 7AB

Jacques and Russell LLP
Grove House
Bedford
MK42 7XY

Our ref: **ASA/AT/78/19**
Your ref: Higgins/01/2019

12 September 2019

Dear Sirs,

Our client: All Stars Academy Foundation Ltd
Your client: Charlie Higgins (through his litigation friend Mabel Higgins)

Without Prejudice save as to costs

Further to negotiations in this matter, we have obtained our client's instructions and confirm agreement of revised settlement proposals in the sum of £55,000 payable within 14 days.

We await hearing from you further to bring matters to conclusion.

Yours faithfully,

Louise Debaney

Kempstons LLP

Turn over

DOCUMENT 5

Email from Rahul Thandi to Louise Delaney

From: rahul.thandi45@gmailing.com
To: l.delaney@kempstons.org
Date: 19 June 2019
Subject: Talia Kaur

Dear Ms Delaney,

Thanks for your letter sending me the claim form and particulars of claim.

Talia's claim is a complete joke. I want to make it very clear that it is not my fault that Talia was injured. It was her own stupid fault for being rough with the tap. She knew I had only just moved into the house, which is the first that I have ever owned, and that the kitchen was in a mess. I wouldn't be paying any compensation, even if I had any money.

I have sent a copy of this email to the court.

Yours sincerely,

Rahul Thandi

Sole Proprietor
Thandi's Deluxe Limousines

[NOTE TO CANDIDATES : You may assume that Rahul Thandi's statement, that he has sent a copy of this email to the court, is correct.]

DOCUMENT 6

Email from Rahul Thandi to Louise Delaney

From: rahul.thandi45@gmailing.com
To: l.delaney@kempstons.org
Date: 19 December 2019
Subject: Talia Kaur

Dear Ms Delaney,

I have received the judgment but, as I have already said, I have no money. I could not even afford the insurance premiums to get house insurance and I don't have any credit cards. I want you to stop writing to me, as I cannot afford to pay now or ever. I don't appreciate you mentioning my business, which I have built up for the last eight years. I need every one of my cars each day to run my business and you should know that I don't own all of them, as they cost the best part of £40,000 each.

Yours sincerely,

Rahul Thandi

Sole Proprietor
Thandi's Deluxe Limousines

End of Case Study Materials

