



June 2022
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

- A clean/unannotated copy of the case study materials is attached to this examination.
- You are permitted to take your own clean/unannotated copy of the case study materials and a statute book, where permitted, into the examination. You are **NOT** permitted to take any other materials including notes or textbooks.
- In the examination, candidates must comply with the CILEX Examination Regulations – Online Examinations or with the CILEX Examination Regulations – Online Examinations with Remote Invigilation.

Turn over

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 rules of professional conduct for lawyers issued by the regulatory bodies for CILEx and the SRA.

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, over and above familiarity with the relevant current specification, including the rules of professional conduct.

Listed below are the Civil Procedure Rules that learners may find particularly relevant to this examination:

Civil Evidence Act 1968

SRA Standards and Regulations

Practice Direction - Pre-Action Conduct and Protocols

CPR

Part 3

Practice Direction 3E

Part 6

Part 10

Part 15

Practice Direction 16

Part 18

Part 20

Part 21

Practice Direction 21

Part 32

Part 36

Part 44

ADVANCE INSTRUCTIONS TO CANDIDATES

You are a trainee lawyer in the firm of Kempstons LLP ('Kempstons') of the Manor House, Bedford, MK42 7AB. You work in the Dispute Resolution Department and your supervising partner is Tania Williams. You also assist the other solicitor in the Department, John Jenkins. Your local County Court Hearing Centre is in Bedford.

You are assisting Tania Williams and John Jenkins with the following cases.

**(1) The So Fresh, So Clean Limited File
(File Ref: JJ/SFSC/113/22)**

Kempstons is acting for So Fresh, So Clean Limited in relation to a claim for a breach of contract relating to the delivery of some defective washing machines. Further information concerning this case can be obtained from the following case study materials:

DOCUMENT 1 : Email from John Jenkins to trainee lawyer

**(2) The Mohinder Bano file
(File Ref: TW/MBano/151/22)**

Kempstons is acting for Mohinder Bano with respect to injuries that he sustained in a road traffic accident that took place last year. Further information concerning this case can be obtained from the following case study materials:

DOCUMENT 2: Letter from Neelam Bano to Tania Williams

DOCUMENT 3: Email from Neelam Bano to Tania Williams

**(3) The East Coast Amusements Limited file
(File Ref: TW/ECA/198/22)**

Kempstons is acting for East Coast Amusements Limited ("ECA") with respect to a claim against Lincolnshire Decorations Limited ("LDL") relating to some work that was done on ECA's premises in Cleethorpes. Further information concerning this case can be obtained from the following case study materials:

DOCUMENT 4: Email from Tania Williams to trainee lawyer

DOCUMENT 5 : Attendance note of telephone conversation between Tania Williams and Marek Kowalski

Turn over

DOCUMENT 1

EMAIL FROM JOHN JENKINS TO TRAINEE LAWYER

From: John Jenkins (JohnJ@Kempstons.co.uk)

Sent: 2 February 2022 15:35

To: Trainee Lawyer (Trainee@Kempstons.co.uk)

Subject: So Fresh, So Clean Limited - faulty washing machines

Dear trainee,

I would be grateful if you could help me with this matter where we have just been instructed by So Fresh, So Clean Limited ("SFSC") concerning some faulty washing machines that it was supplied with. Our contact there is the company secretary, Victoria Lumumba.

As you know my wife is expecting our first child in the next few months and so I might need you to take a leading role on this under my supervision.

SFSC is a relatively new company that runs a chain of laundrettes in north and east London. Its laundrettes are a "one stop shop" as they provide dry cleaning and clothes alterations alongside the standard laundry business. The company has also now started getting some commercial contracts for local businesses.

As people are returning to their offices following the lockdown, demand for SFSC's services has increased and it therefore decided to open a new branch in Dalston, east London. The branch was due to start trading at the beginning of this year. One of the reasons SFSC chose Dalston is that it recently won a contract to clean bedding and tablecloths for a hotel chain that has its head office in the area.

As part of the preparations for the new branch, SFSC bought four new washing machines from Protec Engineering Limited for £15,000. Protec installed the machines in January, and they seemed to work well when SFSC did a test wash before the opening of the new laundrette.

Unfortunately, however, problems emerged pretty quickly after the machines started to be used regularly. Items were not being cleaned properly and indeed seemed to be coming out dirtier than they had been before they were washed. One of the machines then flooded. SFSC contacted Protec to try to arrange for one of its staff to come to look at the machines, but Protec indicated that it had no one available for several days. As it had a large contract coming in, SFSC therefore arranged for a specialist plumber to inspect the machines to see if they could repair them.

The plumber managed to get the machine, that flooded, working again. However, she advised SFSC that the problems it was experiencing were due to the design of the machines as the filters that had been fitted in them did not have the capacity for high volumes of washing. They were therefore getting blocked with dirt from the items that were being washed. As a result, the machines are not fit for commercial use.

CASE STUDY MATERIALS

SFSC immediately contacted Protec to try to resolve this issue, but they are arguing that there is nothing wrong with the design of machines and that SFSC will have to sort out any issues themselves.

Victoria Lumumba therefore contacted me yesterday to ask us to assist the company with the matter. She has instructed me that SFSC would like to resolve the matter quickly. The company has not been able to fulfil the contract with the hotel chain and, as a whole, the launch of the Dalston branch has not been a success. SFSC has therefore suffered losses of £18,000 which it wishes to recover.

Turn over

DOCUMENT 2

LETTER FROM NEELAM BANO TO TANIA WILLIAMS

Tania Williams Solicitor
Kempstons LLP
The Manor House,
Bedford,
MK42 7AB
12th February 2022

Neelam Bano
45 Cedar Road
Feltham
London
TW14 8EU
07907 584 128
NeelieB54@yahoo.co.uk.

Dear Mrs Williams,

I wondered if you could help me with a road traffic accident involving my son, Mohinder, which took place in September last year. You were recommended to me by my friend Harpreet Hothi as you dealt with a case involving an accident she had.

This accident happened when my husband was driving Mohinder to the sixth form college in Staines where he is studying for his A Levels. They were on London Road in Feltham which is a dual carriage way. They were in the left-hand lane and were coming up towards the roundabout where London Road meets the A30.

As they got closer to the roundabout, a Mercedes 4 x 4, which had been to the right of them, suddenly turned into their lane without signalling or giving any other warning that it was about to do so. Our car is a Toyota Yaris and so much smaller than the car that turned into them. They were therefore forced off the road and crashed into a wall at the side of the road.

As a result of the accident, the passenger side of the car was badly damaged and Mohinder suffered fractures to his leg and ankle. Fortunately, my husband suffered only minor cuts and bruises.

Mohinder was taken to hospital by ambulance straight after the accident and has been suffering from his physical injuries ever since. He has also continued to experience nightmares about the accident. He used to be such a happy young man, but I can see this has badly affected him and I'm worried how it will affect his exams.

I know I should probably have come to see someone before now, but I was focusing on making sure that Mohinder was alright. As it is, the police have been involved and so there is a court case coming up as they have taken action against Lesley Ellis who was driving the 4 x 4. I therefore didn't want Mohinder involved in too much drama about this.

I am really angry about what has happened and the impact this has had on Mohinder. We're not a wealthy family but I want to do what it takes to make sure that Lesley Ellis is made to pay for what she has done.

Please get in touch to let me know what we can do about this.

Yours sincerely,
Neelam Bano

DOCUMENT 3

EMAIL FROM NEELAM BANO TO TANIA WILLIAMS

From: Neelam Bano (NeelieB54@yahoo.co.uk)

Sent: 12th May 2022 09:21

To: Tania Williams (TaniaW@Kempstons.co.uk)

Subject: Mohinder's case

Dear Mrs Williams,

I just wanted to bring you up to date with the case in the magistrates' court. As you know this was due to take place in late June, but I've just heard from the police that Lesley Ellis has written to the court to admit that she was guilty of careless driving.

I'm really pleased about this as we're planning to have a big family holiday in early July, and I didn't want the case to interfere with that. Given what a rough time he has had, we wanted to do this as an early birthday present for Mohinder. He's not 18 until 4th October but this is the only time we can all go away.

I hope this helps with his case.

Best wishes,

Neelam Bano

Turn over

EMAIL FROM TANIA WILLIAMS TO TRAINEE LAWYER

From: Tania Williams (TaniaW@Kempstons.co.uk)

Sent: 31 May 2022 09:26

To: Trainee Lawyer (Trainee@Kempstons.co.uk)

Subject: East Coast Amusements ("ECA") v Lincolnshire Decorations Limited ("LDL")

I would like your help with this case where we will be issuing proceedings shortly.

To give you some background, our client runs a series of amusement arcades in seaside resorts on the east coast of England. One of its larger arcades is in Cleethorpes.

The local council in Cleethorpes has recently secured a grant from the government's "Levelling Up" fund to upgrade the seafront to encourage more visitors to the town. As ECA operates one of the major attractions on the seafront, the council approached our client to ask if it could improve the appearance of the arcade as the exterior had become a bit run down.

For the avoidance of doubt, our client has received no money from either the council or the government. ECA was, however, happy to agree to repaint the exterior of the building as it hoped to benefit from the efforts to attract more tourists to the town. As the arcade is right on the seafront, it is exposed to harsh weather conditions and so there are specific requirements for any work that is carried out on the exterior of the building.

ECA contracted LDL to do the work for them at a cost of £40,000. Under the contract, LDL supplied all the paint and any other material necessary for the upgrade. LDL made good progress on the work, which was completed in October once the main tourist season was over. ECA therefore paid for the work in full.

ECA was initially very happy with the work but towards the middle of November noticed that some of the paint was beginning to peel off. This has got gradually worse and ECA is worried that long-term damage will be caused to the fabric of the building as the walls are becoming damp where the paint has come off. Another contractor has inspected the work and indicated that it will cost £95,000 to repaint the building and repair the damage caused.

ECA tried to resolve the matter with LDL with little success. It therefore instructed us to make a claim against LDL. Unfortunately, we have not made any progress with the case.

As you'll see from the attached attendance note, I've discussed the matter with Marek Kowalski, the CEO of ECA, and he has agreed that we need to start proceedings. He will sign the statement of truth on the Claim Form and Particulars. I want you to take the necessary steps to commence proceedings and then to assist me with the case on an ongoing basis.

DOCUMENT 5

ATTENDANCE NOTE OF TELEPHONE CONVERSATION BETWEEN TANIA WILLIAMS AND MAREK KOWALSKI

Attendance by: Tania Williams ("TW")
Client: East Coast Amusements (CEO – Marek Kowalski)
Matter: Lincolnshire Decorations Limited ("LDL")
Date: 27 May 2022
Time in attendance: 20 minutes
Reference: TW/ECA/198/22

TW attending on Marek Kowalski ("MK") to review the evidence in the LDL case. There had been some correspondence with LDL's solicitors concerning the case, but this had not helped to resolve the matter.

LDL has argued that it is not responsible in any way for the problems with the paint on the arcade in Cleethorpes. They indicated that they are experienced contractors and that there were no faults with the work that had been done on the building.

LDL's view was that there must have been a problem with the paint that was used although they couldn't say what this was. LDL had relied on information from the manufacturers of the paint, Gilbert Rosslaw Limited, as to the qualities of the paint and in what circumstances it could be used.

MK pointed out that ECA could not be held responsible for the choice of paint as that had not been specified in the contract between them and LDL. Indeed, by their own admission, LDL were experienced in such matters and so MK relied on their judgement as to the materials that they used and how they carried out the work.

TW discussed with MK what the options might be from now. TW did not think ADR would be appropriate given that there didn't seem to be any common ground between the parties with LDL not indicating any desire to settle the claim. This could, of course, be revisited at a later stage in the case.

MK agreed with this analysis and although he was not averse to settlement of the case, he was happy to take court proceedings.

TW explained what would happen from here and the possible timescales involved.

End of Case Study Materials