

**CASE STUDY MATERIALS**

September 2020  
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**

**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 these units, 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 which learners may find particularly relevant to this examination:

Part 1  
Part 3  
Part 6  
Part 7  
Practice Direction 7a  
Part 12  
Part 14  
Part 15  
Part 16  
Part 17  
Part 19  
Part 23  
Part 24  
Part 25  
Part 35  
Part 36  
Part 39  
Part 40  
Part 41  
Part 44  
Part 70  
Part 71  
Part 73  
Part 83  
Part 84

**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 Robin Silver. Your local County Court is situated in Bedford.

You are assisting Robin in the following cases:

**1) The Milan Vane file (file ref: MV/RS/78/19)**

Kempstons acts for Milan Vane in connection with a personal injury claim that he wishes to make against his employer, Odyssey Ltd. Milan is employed as a ship-builder and, on 15 March 2019, while in the course of his employment, he was struck by a piece of falling scaffolding, which was in the process of being dismantled.

The matter has begun under the EL/PL protocol and the Claim Notification Form was sent to the defendant's insurers on 5 June 2020. Kempstons has received a letter from the claimant's treating consultant, Dr Hari Bond, to the claimant's GP, Dr Willoughby. Framptons LLP has been instructed by the defendant's insurers.

Further details of this case can be obtained from:

- Document 1** Extract from letter from Dr Hari Bond FRCS to Dr Gabriel Willoughby, dated 12 June 2020
- Document 2** Email from Milan Vane to Robin Silver, dated 17 June 2020
- Document 3** Letter from Framptons LLP to Kempstons LLP, dated 12 August 2020
- Document 4** Letter from Framptons LLP to Kempstons LLP, dated 29 October 2020

**2) The Agatha Wilkins file (file ref: AW/RS/84/20)**

A summary of the circumstances of this case can be found in:

- Document 5** Attendance Note – Robin Silver upon Agatha Wilkins, dated 19 February 2020

Further details of this case can also be obtained from:

- Document 6** Letter from Shelley Showers to Kempstons LLP, dated 16 July 2020
- Document 7** Letter from Shelley Showers to Kempstons LLP, dated 28 September 2020

***Turn over***

**DOCUMENT 1**

**Extract from letter from Dr Hari Bond FRCS to Dr Gabriel Willoughby**

12 June 2020

Dear Dr Willoughby,

Re: Milan Vane of 14 Stoneyhurst Place, Bedford, MK42 2CX  
Date of birth: 11 September 1968  
Date of accident: 15 March 2019

It was a pleasure to see Milan Vane at my rooms on 12 June 2020 and I am pleased now to update you as to his progress, although I am sorry to say that I am not yet able to discharge Mr Vane from my care.

I am satisfied that the ongoing symptoms which he continues to suffer, from the effects of the neck injury, will continue to resolve over the next 18 months. I have previously described the injury to the neck as a flexion/acceleration strain caused as a result of his efforts to avoid the piece of scaffolding striking him. It is fortunate that he did move his position, otherwise it is entirely possible that the scaffolding would have struck him directly on the head, rather than the glancing blow to the head which he suffered. I have made him aware that any trauma to the head carries with it a risk of epilepsy, but he has made no reports to me of any seizures.

The shoulder injury is more complex. I have noted previously that Mr Vane sustained a shoulder injury from the falling piece of scaffolding. He continues to report recurrent episodes of frozen shoulder, for which he is receiving treatment. I remain of the view that he did not sustain any bone injuries, but there is evidence of soft tissue damage. It may be that surgery will be necessary at some point, if his symptoms do not resolve, although I am confident that he will continue to improve as the episodes are becoming less frequent.

Mr Vane gives no pre-accident history of symptoms of note. He has continued in full-time work in his usual capacity since his return to work in May 2019 and reports no problems with that. He is a very lucky man to have avoided much more serious injury.

I will see him again in three months' time.

Yours sincerely,

Hari Bond FRCS  
Consultant Neurological Surgeon

DOCUMENT 2

**Email from Milan Vane to Robin Silver**

**From:** Milan\_Vane@fastmail.co.uk  
**To:** R.Silver@Kempstons.co.uk  
**Date:** 17 June 2020  
**Subject:** Your update and some news

Hi Robin

Really appreciate your update on what you are now doing to help me with my claim. Just want to let you know that I have got a chance of a new job, training ship-building apprentices. This will be a great move for me and will get me out of the ship-building business after all these years and onto dry land for a change! It's too good an opportunity to miss, but I will earn less than I am doing now.

I know I've been lucky to get back to my old job after the accident, and I've enjoyed the overtime and productivity bonuses. I reckon I'll get about £8,000 less per year, but you did say I could claim for loss of earnings after the accident. It's difficult enough to manage now with the cost of everything going up, and I admit I am short of money. I could do with knowing when I might get my compensation. I realise the claim has only just started, but something as soon as possible would really help. Anyway, I wait to hear more from you when there is news.

All the best,

Milan

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**Extract of letter from Framptons LLP to Kempstons LLP**

Kempstons LLP  
Manor House  
Bedford  
MK42 7AB

Date: 12 August 2020

Our ref: JP. Odyssey.08019  
Your ref: MV/RS/78/19

Dear Sirs,

**Re: Our client Odyssey Ltd and your client Milan Vane**

Further to correspondence in this matter, we enclose by way of service, a copy of the defence which has been filed with the court.

As you will note, it is not in issue that a duty exists between the parties. Although we are instructed to: (a) admit breach of that duty to the extent alleged in the particulars of claim and (b) that, albeit that our client did give a warning, it is admitted that our client failed to give a sufficient warning of the exclusion zone to all employees on site, we maintain that your client has been contributorily negligent. He failed to heed such warning as was given and failed to take any reasonable steps to secure his own safety on site by reason that he entered the exclusion zone and failed to wear PPE (including a hard hat) as required, and as provided to him. Our instructions are that your client was frequently in dispute with management about his failure to wear PPE.

As such, it remains our client's view that your client adopted a reckless attitude to health and safety at work and failed to adhere to guidance and, therefore, the cause, nature and extent of your client's injury, loss and damage are denied.

We look forward to discussing further when you have your client's instructions and confirm our expectation that the matter is capable of a swift conclusion, should your client adopt a reasonable position.

Yours faithfully,

*Jess Pelouse*

Framptons LLP

**[NOTE TO CANDIDATES: The documents referred to in this letter do NOT form part of these case study materials.]**

**Extract of further letter from Framptons LLP to Kempstons LLP**

Kempstons LLP  
Manor House  
Bedford  
MK42 7AB

Date: 29 October 2020

Our ref: JP. Odyssey.08019

Your ref: MV/RS/78/19

**Without prejudice save as to costs**

Dear Sirs,

**Re: Our client Odyssey Ltd and your client Milan Vane**

Further in this matter, we enclose by way of service notice of Part 36 offer (Form N242A).

With reference to the offer above, and by way of emphasis, you will see that the net offer is in the sum of £18,000 and, for the avoidance of doubt, is made in satisfaction of the claim on the assumption that your client will not develop epilepsy. Should he develop epilepsy, we have advised our client that your client will be entitled to claim further damages at any time before 2030. The offer reflects a reduction of 25% for contributory negligence.

We should also make it clear that we have firm instructions that, should this offer not be accepted within the relevant period, the offer will be changed to a less advantageous sum and only be available for acceptance on those terms.

In the circumstances, we trust that you will advise your client appropriately and this matter can be drawn to conclusion.

Yours faithfully,

*Jess Pelouse*

Framptons LLP

**[NOTE TO CANDIDATES: The documents referred to in this letter do NOT form part of these case study materials.]**

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## DOCUMENT 5

**Attendance Note – Robin Silver upon Agatha Wilkins**

**Attending:** Agatha Wilkins (file ref: AW/RS/84/20)  
**Attendance by:** Robin Silver  
**Date:** 19 February 2020  
**Time engaged:** 1 hour

**Re: New matter relating to bathroom installation (Shelley Showers)**

This was my first meeting with the client. Client has had a number of problems with her bathroom fitted by Shelley Showers of Dove Links Parade, Bedford, MK12 4HT. This is the trading name for Bayley and Dev Shelley, who are two brothers working in partnership together. Work began on 6 August 2017 and was completed by 14 November 2017. Agatha has the original written contract, which provides for the removal of the old bathroom furniture and for the fitment of a wetroom, including shower, basin and lavatory. Agatha agreed to pay the sum of £35,000 plus VAT for the work including materials and fitments. The room was to be tiled throughout with a mirror-tiled ceiling. Agatha paid 25% as a deposit when the contract was signed on 21 July 2017 and, in December 2017, Agatha paid the balance due. She has receipted invoices to this effect.

The work contracted to be done appeared to have been done satisfactorily and Agatha was very pleased with the result and the appearance of the wetroom, which she described as luxurious, with materials of the highest quality. However, it has now become apparent that there are problems. The shower has been leaking through into the airing cupboard, which is adjacent to the wetroom. This only came to light when Agatha had the boiler in the airing cupboard serviced on 14 January 2020. The boiler engineer showed Agatha that the wall separating the airing cupboard and the shower fitment was sodden, and the plaster had come away in chunks, leaving some tiles in the shower area without support. A major repair is required and, until then, the shower is unusable. Although Agatha has tried contacting Shelley Showers, who are still trading, they have not returned her calls to date. She has had one written quote from another bathroom fitter for £15,000 plus VAT.

Agatha has also noticed that one of the mirror ceiling tiles is cracked. Last week, she popped into a local DIY store and spoke to one of the assistants, who told her that mirror tiles were totally unsuitable for use on a ceiling because of their weight, unless the ceiling was reinforced or a dummy ceiling installed so that the vibrations from the room above would be minimised. Agatha says that her son's bedroom is above the wetroom. He is aged 6 and is a happy and boisterous child, who enjoys jumping on the bed. Agatha says that had she been told this information before she entered into the contract with Shelley Showers, she would never have asked for mirror tiles to be used. She now feels that the tiles should be removed and a more suitable ceiling fitted. She has not yet obtained any quotes for this work.

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Note to change client's address details: client's correct address is now The Lodge, Tumbleweed Close, Bedford, MK42 2QT. I have checked the status of Shelley Showers and it is not an LLP.

I have agreed with Agatha that we can take this matter forward for her.

Robin

***Turn over***

**Letter from Shelley Showers to Kempstons LLP**

## Shelley Showers



Dove Links Parade, Bedford MK12 4HT

Kempstons LLP  
Manor House  
Bedford  
MK42 7AB

Your ref: AW/RS/84/20  
Our ref: Dev Shelley

Date: 16 July 2020

Dear Mr Silver,

### **Re Agatha Wilkins**

Thanks for your letter of 2 June with enclosed claim form and particulars of claim. Please take this letter as my acknowledgement of service. As you have probably gathered from our earlier correspondence, we'll be dealing with this in-house. I did some qualifications in law and business a while back, and I'm happy to manage without lawyers!

I have no idea how the claim has now got to a value of £20,000. I have put together our defence, which I will let you have shortly. I am really keen that we understand each other. It's been helpful to have the frank discussions which we have had, but I am afraid that your particulars of claim show that Agatha just isn't getting the fact that, to begin with, I told her that mirror tiles were not suitable for her ceiling, as her kid was bouncing up and down on the floor all the time. Like I have already said, she showed me a picture of a bathroom out of a magazine and insisted that that was what she wanted fitted. She also said that her son would be using a different bedroom, and the bedroom above the wetroom was just going to be a guest room and rarely used. So, all things considered, we fitted what she wanted.

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You have asked yet again whether I have any settlement proposals, and I understand that you want this sorted out, but your client is not helping herself by saying she doesn't want us on her property, otherwise we would have done the repair work ourselves. As it is, we are happy to agree to settling up on the basis that we pay £5,000 towards the repair of the leak from the shower and the replastering of the wall. However, we cannot and will not agree to pay a penny towards taking down and replacing the ceiling, as that is Agatha's problem. I have been to the court office to discuss, and I now enclose our application for summary judgment.

Kind regards,

Dev Shelley  
Shelley Showers

**[NOTE TO CANDIDATES: The documents referred to in this letter do NOT form part of these case study materials.]**

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DOCUMENT 7

Letter from Shelley Showers to Kempstons LLP



**Shelley Showers**

Dove Links Parade, Bedford MK12 4HT

Kempstons LLP  
Manor House  
Bedford  
MK42 7AB

Your ref: AW/RS/84/20  
Our ref: Dev Shelley

Date: 28 September 2020

Dear Mr Silver,

**Re Agatha Wilkins**

I have received notice of the trial date and this is to let you know that I will be attending the trial with my brother, Bayley. You already have my witness statement and Bayley's evidence will be the same as mine, so it looks like it will be two against one, as you only have Agatha.

I am not too happy to learn that this will be in open court, as it could be bad for business, so can we agree that the hearing is in private?

Looking forward to getting this sorted once and for all. I am surprised your client has not thought about discontinuing. We may be able to come to some agreement there. Wait to hear.

Regards,

Dev Shelley  
Shelley Showers

**End of Case Study Materials**