

CASE STUDY MATERIALS

June 2017
Level 6
THE PRACTICE OF FAMILY LAW
Subject Code L6-20



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 20 – THE PRACTICE OF FAMILY LAW*

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.

Turn over

* 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**

ADVANCE INSTRUCTIONS TO CANDIDATES

You are a trainee lawyer employed by the firm Kempstons LLP, The Manor House, Bedford, MK42 7AB. The firm's telephone number is (01234) 622964; fax (01234) 622965 and its DX address is Bedford 3721. The firm is a high street practice and one-third of the firm's caseload consists of matrimonial work. The matrimonial team at Kempstons LLP is headed up by the matrimonial partner, Geraint Hughes. The local family court is in Bedford.

You arrive at work to find the following documents on your desk:

- Document 1** Memorandum from Geraint Hughes
- Document 2** Attendance Note re Rebekah Bernstein
- Document 3** Attendance Note re Fiona Collins
- Document 4** Email from Dominic Wilson
- Document 5** Attendance Note re Eleanor Knight

DOCUMENT 1

MEMORANDUM

To: Trainee Lawyer
From: Geraint Hughes
Date: (Yesterday's date)
Re: Matters to be attended to in my absence

As I mentioned, I am going to be absent from the office for the next fortnight on annual leave. I would be grateful if you could please attend to the following cases during my absence:

1. Rebekah Bernstein

Mrs Bernstein is a new client. I saw her for a first appointment today and attach a copy of the attendance note of this meeting (**Document 2**). Please deal with this case in my absence.

2. Fiona Collins

I have been dealing with Mrs Collins' divorce proceedings and am currently trying to resolve the related financial matters. I attach an attendance note of my meeting with her last Friday (**Document 3**). Please deal with any queries that Mrs Collins may have while I'm away.

3. Dominic Wilson

I assisted Mr Wilson with advice about some family queries a few years ago. I attach a copy of an email I received from him earlier today (**Document 4**). Please progress the case as required.

4. Eleanor Knight

Miss Knight is a new client, who attended at the office late this afternoon. I attach a copy of the attendance note of this meeting (**Document 5**). Please take any action required on this case during my absence.

Many thanks,

Geraint

Turn over

DOCUMENT 2

ATTENDANCE NOTE

Client: Rebekah Bernstein

Date: (Yesterday's date)

Fee earner: Geraint Hughes

File ref: GH/LR/B101

Time taken: 1 hour

Attendance on Mrs Rebekah Bernstein, who is a new client. Obtained the proof of identity documentation and carried out the usual conflict checks. There are no issues. Her details are as follows:

Full name: Rebekah Ruth Bernstein

D.O.B.: 14/10/1975

Address: 5 Berry Drive, Clayton, Barnardshire, BH11 3PU

Phone number: 07705158433 (mobile)

Occupation: Teacher

Mrs Bernstein wanted advice about her options following the breakdown of her relationship with her husband. She confirmed that she and her husband, Jacob Bernstein (d.o.b. 03/02/1974), had been having problems in their marriage for some time.

The couple have been married for 18 years. They have two children: Noah Bernstein (d.o.b. 18/07/2001) and Zachary Bernstein (d.o.b. 04/06/2004). The parties' family home is 5 Berry Drive, Clayton, Barnardshire, BH11 3PU. It is a four-bedroom detached property, held in the couple's joint names as joint tenants. Mrs Bernstein is a teacher at the local high school and her husband is a dentist. Both parties are currently still living together at the family home.

Mrs Bernstein told me that she first felt there were problems with the marriage about two years ago, in May 2015. At that time, she was experiencing difficulties at work, as some of her pupils were very disruptive and she had been given additional responsibilities in her role. She had suffered stress as a result of these events and was signed off work for six weeks. Her husband was very unsupportive of her during this period and mocked her in front of the children, referring to her as a 'cry baby', which she found very upsetting.

By January 2016, she became suspicious that her husband was having an affair, as he had been away for a number of weekends on what he claimed were 'conferences' relating to work. She said that in the past he had attended one or two conferences a year at most. She checked on the dates and discovered that there were no relevant work events on those dates. She confronted her husband about this and he admitted that he had been away with Sarah, who was a nurse at the practice. He told Mrs Bernstein that he and Sarah had been conducting an

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affair since the summer of 2015, but that he had now ended it. Mrs Bernstein said that for the sake of the children she had decided to forgive her husband and try to make a go of their marriage.

In March 2016, the couple attended some counselling sessions with Relate and subsequently their relationship did improve for a while. Unfortunately, by October 2016, Mrs Bernstein felt that matters began to deteriorate again. Her husband was under a lot of pressure at work, as one of the partners in the practice had left and Mr Bernstein had taken on his colleague's patients. This meant that Mr Bernstein had to work evenings and weekends to be able to fit in all of the patients. This affected family life, as he was rarely there at mealtimes or weekends. Mrs Bernstein said that this meant that she was solely responsible for looking after the children and that this affected both her and the boys, who missed spending time with their father. When she tried to broach this with her husband, he said he couldn't do everything and that she and the boys should toughen up.

Mr Bernstein's heavy workload continued and Mrs Bernstein said that by early 2017 she and the children barely saw him. He would return home late from work and eat alone before going to bed. In February 2017, the couple had moved into separate bedrooms and Mrs Bernstein told me that since that point she and her husband have not had sexual relations.

Mrs Bernstein told me that the final straw for her had been Mr Bernstein being late for Zachary's bar mitzvah earlier this month. She said this was not only embarrassing but also upsetting for both herself and Zachary. She confirmed that she now believes that the marriage is at an end. She is worried that the atmosphere between her and her husband is strained and this is upsetting for the children. She has told her husband that she wants a divorce. She said that he does accept that the marriage is over and is happy for her to commence proceedings as soon as possible.

I advised Mrs Bernstein of the ground for divorce and the five facts. She will consider her options and let me know how she wants to proceed.

Turn over

DOCUMENT 3

ATTENDANCE NOTE

Client: Fiona Collins

Date: (last Friday)

Fee earner: Geraint Hughes

File ref: GH/LR/C203

Time taken: 30 minutes

Attendance upon Mrs Collins, who confirmed that she had received the decree nisi, pronounced in relation to her two years' separation petition, at the end of last week.

I ran through the up-to-date figures for the parties' assets with Mrs Collins:

- former family home: 3 Gainsborough Court, Clayton (Land Registry Title Number BD75170) held in Mr Collins' sole name:
 - valued at £610,000
 - less mortgage of £125,000
 - net equity £485,000
- investment property: 22 Smithfield Street, held in Mr Collins' sole name and valued at £225,000 (this property is mortgage-free)
- joint life assurance policy with a surrender value of £110,000
- shares in Mr Collins' sole name £75,000
- shares in Mrs Collins' sole name £50,000
- cash ISAs in Mr Collins' sole name £20,000
- cash ISAs in Mrs Collins' sole name £30,000
- Mr Collins' pension: C.E. £220,000
- Mrs Collins' pension: C.E. £75,000.

Mrs Collins explained that Luke, her husband, had purchased the investment property and the former family home in his sole name, because he said her credit record was not as strong as his, so it was easier for him to deal with things on her behalf. She thinks it likely that they will sell both properties to resolve their finances.

Mr Collins continues to pay voluntary child maintenance for the couple's two children, Charlie (12) and Isla (9). The children visit and stay with him regularly at his new rented home.

Mrs Collins told me that ideally she would like to reach an amicable agreement about their finances and avoid court if possible, although she does want to ensure that she and the children are re-housed in a suitable property.

She mentioned that she is away on a training course with work next week and that Mr Collins will be moving into the former family home to look after the children during this period.

DOCUMENT 4

EMAIL

To: Geraint Hughes
From: Dominic Wilson
Date: (Yesterday's date)
Subject: Oliver

Hi Geraint,

I hope you are well? I need your help with sorting some things out relating to my son Oliver again, please.

As you may recall my former partner Victoria Pearson and I split up two years ago. We have been able to resolve most things to do with Oliver amicably and without the need to go to court. We agreed that Oliver (who is now 7) should live with Vicky and come and stay with me every other weekend. We also share his school holidays between us and that arrangement seems to be working well. Most importantly, Oliver seems settled and I do not want to do anything to spoil that.

However, Vicky never asks my opinion about any decisions involving Oliver. I never hear anything from his school, and if he needs to visit the doctor or dentist, then Vicky takes him. You may remember that when Oliver was born, Vicky insisted on registering his birth without me and she registered him in her surname of Pearson with no mention of me as his father. I feel as if I am not fully involved in Oliver's life, which seems stupid to me, given how often I see him. I've tried to reason with Vicky about this, but she refuses to talk about it.

The other problem I have is that I booked a holiday for Oliver to go away with me during the summer. I've arranged for us to go to Spain. We will be sharing an apartment with my parents; and my sister, brother-in-law and their children have booked to stay in an adjoining apartment. There are lots of amenities on the site and a waterpark nearby for us to visit. I have told Oliver and he is really excited about it. I mentioned the holiday to Vicky earlier this week. I was expecting to have Oliver stay with me for half of his summer holidays as usual, so I was horrified when Vicky said that she would not let Oliver go!

I have tried to talk to her about it, but I do not seem to be getting anywhere. I think the reason she's refusing is that she also wants to take Oliver away, but there's plenty of time in the summer for us both to have a holiday with him. To secure the holiday, I had to pay in advance for the apartment and the flights, so I am really worried about the position. Oliver's already upset about it, as unfortunately he overheard Vicky and me arguing about it.

Could I please come in to see you to discuss these matters as soon as possible?

Many thanks,

Dominic

Turn over

DOCUMENT 5

ATTENDANCE NOTE

Client: Eleanor Knight
Date: (Yesterday's date)
Fee earner: Geraint Hughes
File ref: GH/LR/K142

Time taken: 1 hour

Attendance upon Eleanor Knight, who is a new client. She wanted urgent advice following some incidents of domestic abuse. I noted that she had a black eye. I completed the necessary conflict checks and obtained the proof of identity documentation. There were no issues.

Her details are as follows:

Full Name: Eleanor Knight

D.O.B.: 24/03/1987

Temporary address: Flat 4 Fitzpatrick House, Grove Street, Clayton, Barnardshire, BH12 9TU (friend's address)

Phone number: 07718023024 (mobile)

Miss Knight has been living with her partner, Andrew Yates (d.o.b. 11/11/86) for six years. The couple have one child, Tabitha Knight (d.o.b. 02/07/16). They live at 2 The Gables, Clayton, BH12 7KJ. This is a two-bedroom, semi-detached house owned in Mr Yates' sole name. Mr Yates works full-time as a financial consultant. Miss Knight works part-time as a recruitment consultant.

Miss Knight explained that when she and Mr Yates met, her parents had just moved abroad to live in Italy, which is where they still live. At that point, she was living in rented accommodation with two of her friends. She met Mr Yates at one of the local pubs when she was out with her friends. She said that he had been very attentive towards her and they had chatted all night and agreed to see each other again the following night.

Miss Knight said that things moved very quickly with the relationship. She admitted that she was probably rather vulnerable after her parents moved, as she missed them a lot. Within two months of meeting him, she had moved into Mr Yates' house and had given up her rented accommodation.

Miss Knight told me that when she met Mr Yates, she participated in a lot of social activities. She was a member of the local gym, she was part of a book club and she regularly met up with her friends. She explained that as the months went by, Mr Yates started to dissuade her from going out as much. He persuaded her that the gym cost her too much and that she should just use an exercise bike that he had in the house. On the night when she should have been going to her

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book club meetings, he would regularly buy tickets for them to go to the cinema together, and after a few months Miss Knight was too embarrassed to return to the club. She said that gradually Mr Yates started to plan things on the night when she would meet up with her friends. He also criticised her friends, claiming that they were a bad influence on her. After a few months, Miss Knight's friends stopped including her in their plans.

Initially, Miss Knight enjoyed Mr Yates' attention and was flattered that he wanted to spend so much time with her. The couple enjoyed a good lifestyle. They both earned substantial money and would regularly go on exotic holidays and enjoy meals out and weekends away together. Miss Knight mentioned that Mr Yates also came from an affluent family. His parents live in a four-bedroom house near the couple in Clayton.

When Miss Knight became pregnant with Tabitha, Mr Yates' attitude towards her changed. She admitted to me that they had not planned on having a baby at that stage. Mr Yates was furious when she told him, and accused her of trapping him. After that point, Mr Yates started to spend more and more time out in the evenings with his friends or at his parents'. Miss Knight told me that she then realised how isolated she had become from her friends. To make things worse, Mr Yates' parents sided with their son and they refused to have anything further to do with Miss Knight.

Unfortunately, things only became worse after Tabitha's birth. Mr Yates began to criticise Miss Knight's appearance, saying that she had become a frump and that he couldn't bear to look at her. He criticised the way she looked after Tabitha, calling her a 'bad mother', which Miss Knight found very upsetting. He also said that she was 'lazy', and he would regularly return from work in a bad mood, saying that he was fed up with being the main breadwinner. He refused to help with Tabitha at all. Miss Knight said that she felt she had no support at all, with her parents living abroad and having lost touch with her friends. She told me that she hid the deterioration of her relationship from her parents, as she did not wish to worry them.

In May this year, she decided to join a local Mother and Babies class, to get out of the house and to help her to meet other new mothers. When she told Mr Yates that she had been to the first meeting, he broke into a rage, saying that she wasn't going to be wasting his money on her social life, and he forbade her to go again.

The following week, Miss Knight did return to the class. As soon as Mr Yates got back from work, she could tell that he knew that she had been to the class. Tabitha was asleep upstairs and Miss Knight was in the kitchen preparing a meal. Mr Yates grabbed Miss Knight by the shoulders and shook her hard, saying that his friend had seen her coming out of the class. He slapped her repeatedly across the face and told her that she had better not go behind his back again.

Miss Knight was very shaken by the incident. She slept in the nursery that night. The following day she had red marks on her face and she was too embarrassed to leave the house. Mr Yates was very apologetic and said it would never happen again.

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On 30 May, Miss Knight got in contact with her old friends via text messages to suggest that they all meet up so that they could see Tabitha. Miss Knight said that Mr Yates must have checked her texts, as that night he pinned her against the wall and started screaming at her that her friends were a bad influence. He smacked her head against the wall before walking out of the house.

Miss Knight said that after that incident she got in touch with her parents in Italy and told them what was happening. They were distraught and told her to go to the police. When she told them that she was too scared, her father said that they would send plane tickets to her so that she and Tabitha could come out to Italy to stay with them and that they could then take things from there.

The plane tickets arrived and Miss Knight packed suitcases for herself and Tabitha, which she hid in the wardrobe along with the plane tickets. Last night, when Mr Yates got home from work, she heard him go into the wardrobe. She was in the nursery with Tabitha. Miss Knight heard him swearing and he came into the nursery with the plane tickets in his hand. He ripped the tickets into pieces and said that there was no way he would let her go swanning off on holiday. She tried to get out of his way but he blocked her path out of the nursery. He punched her repeatedly on her body, screaming that she had trapped him and ruined his life and that he would be better off without her. He then punched her in the face, which caused Miss Knight to fall to the ground.

Tabitha started crying uncontrollably, which distracted Mr Yates. He ran downstairs and out of the front door. Miss Knight quickly got the suitcases that she had packed and texted one of her friends, who came to collect her and Tabitha before taking them to her flat. Miss Knight said she could not stay there long, as her friend only had a one-bedroom flat. Miss Knight received a text from Mr Yates this morning, saying that he would kill her if she came back.

Miss Knight telephoned the local police station, but they told her that the domestic abuse liaison officer was out on a call and they recommended that she contact a lawyer urgently instead.

I used devolved powers to grant Miss Knight emergency legal representation and, as the court had closed, I advised her to remain at her friend's overnight and return to the office tomorrow.

End of Case Study Materials

