

## INSTITUTE OF LEGAL EXECUTIVES

### UNIT 9 – CIVIL LITIGATION\*

**Time allowed: 1 hour and 30 minutes 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 the question paper fully.** However, you may make notes on the 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 ILEX 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 ball point 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 ILEX qualifications: **LEVEL 3 CERTIFICATE IN LAW AND**

## Question 1

Reference: Question relates to **Documents 1 and 2** of the case materials.

### Additional facts

**Cotton Brothers.** The address of the business is Cotton Brothers Amusement Park, Kempston, MK42 7AD.

The Cotton brothers attend your offices and are concerned about the effect this matter could have on their business. They also have questions about the procedure if a claim is brought.

- (a) As Helen Johnson is not yet 18, how will she be able to bring a claim?  
**(1 mark)**
- (b) On the assumption that a claim is brought, will a claim be issued straight away?  
**(2 marks)**
- (c) What are the options open to the Cotton brothers if a claim was issued?  
**(3 marks)**
- (d) Explain to the Cotton brothers what is meant by:
  - (i) The burden of proof.  
**(1 mark)**
  - (ii) The balance of probabilities.  
**(1 mark)**

Despite hopes of agreement being reached between the parties, the claim is duly issued.

- (e) How long do the Cotton brothers have to file a defence?  
**(2 marks)**

A defence is filed on behalf of your clients and the matter is allocated to the multi-track.

- (f) How are directions likely to be dealt with in this matter? List three relevant directions.  
**(4 marks)**
- (g) You decide that a Part 36 Offer would be an effective way of bringing this matter to a close before trial.

**DRAFT** the contents of a letter to your clients explaining what is a Part 36 Offer and the possible cost consequences should the offer be accepted or the matter go to trial. You advise your clients that a reasonable offer to propose is £70,000.

**(10 marks)**  
**(Total: 24 marks)**

## Question 2

Reference: Question relates to **Document 1** of case study materials.

### Additional facts

**Ellen Bones.** You understand that where there is a dispute, all members of the Association of Flight Instructors must go through the Association's arbitration scheme.

**Jenson Bluebell.** He is currently unemployed and receiving state benefits.

- (a) Name two other types of Alternative Dispute Resolution apart from arbitration.

**(2 marks)**

- (b) List three advantages of using arbitration to settle a dispute.

**(3 marks)**

- (c) Having attended arbitration, you are successful and you now seek to enforce the award on behalf of Helen Bones. Through which court will this be done?

**(1 mark)**

- (d) Advise Jenson Bluebell as to whether or not he will be able to obtain state funding for his claim.

**(3 marks)**

- (e) You receive what appears to be a valid defence to Jenson Bluebell's claim. There are however some points in the defence which are not clear. How would you seek to clarify these points?

**(4 marks)**

- (f) Which track would Jenson Bluebell's claim be allocated to? Give reasons for your answer.

**(3 marks)**

- (g) If the car had been worth only £3,000 instead of £6,500;

- (i) What directions would have been appropriate?

**(4 marks)**

- (ii) How are costs dealt with in such cases?

**(4 marks)**

**(Total: 24 marks)**

### Question 3

Reference: Question relates to **Document 1** of case study materials.

You are now working on the file of Nigel Mardell. He wishes to enforce judgment against Elizabeth Monk.

- (a) How could the court assist you in determining the best method of enforcement available to Nigel Mardell? Outline the obligations of the Defendant to both the Claimant and to the Court if this was to occur.  
**(4 marks)**
- (b) Advise Nigel Mardell of the best way to enforce judgment in the following separate circumstances, explaining how an application is made:
- (i) The Defendant owns her own house.  
**(2 marks)**
- (ii) The Defendant has substantial stock in her shop.  
**(2 marks)**
- (iii) The Defendant has no assets but is employed and earns a substantial salary.  
**(2 marks)**  
**(Total: 10 marks)**

### Question 4

Reference: Question relates to **Document 3** of the case study materials.

You are now working on the file of Jianzhong Chen. He wishes for action to be taken against Rodney Buckingham for the recovery of the £12,000.

- (a) Should you decide to issue proceedings in what ways can service take place?  
**(3 marks)**
- (b) How will costs normally be dealt with in this matter?  
**(4 marks)**
- (c) What rules will apply to the use of an expert in this matter?  
**(5 marks)**  
**(Total: 12 marks)**

**End of Examination Paper**