

CASE STUDY MATERIALS

June 2011
Level 3
PRACTICE OF FAMILY LAW
Subject Code L3-12

The logo for ILEX, consisting of the word "ilex" in a blue, lowercase, sans-serif font.A diagonal banner in the top right corner with a grey background and black border, containing the text "StudentBounty.com" in white, sans-serif font. A small crest is visible above the text.

INSTITUTE OF LEGAL EXECUTIVES

UNIT 12 – 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 the case study materials. You will be required to answer all the questions on the examination paper.
- You should familiarise yourself with the case study materials prior to the examination, taking time to consider the themes raised in the materials.
- You should take the opportunity to discuss the 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 relates to the 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 text books into the examination.
- In the examination, candidates must comply with the ILEX Examination Regulations.

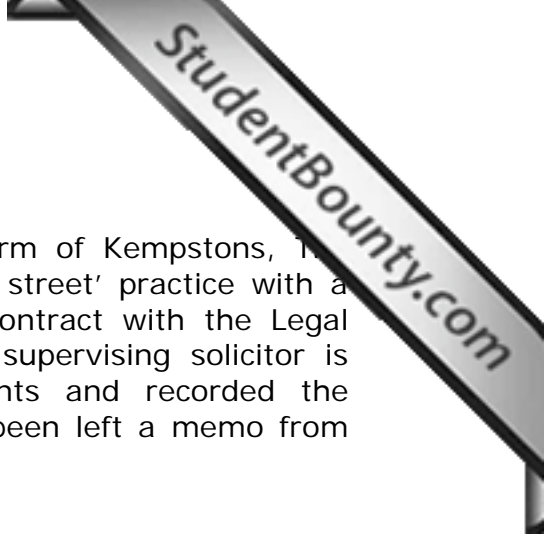
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* This unit is a component of the following ILEX qualifications: **LEVEL 3 CERTIFICATE IN LAW AND PRACTICE** and **LEVEL 3 PROFESSIONAL DIPLOMA IN LAW AND PRACTICE**

ADVANCE INSTRUCTIONS TO STUDENTS

You are a trainee Legal Executive employed by the firm of Kempstons, 11 Manor House, Bedford, MK42 7AB. The firm is a 'high street' practice with a fairly large matrimonial client base. The firm has a contract with the Legal Services Commission to undertake family work. Your supervising solicitor is Kasha Patel. You have met with the following clients and recorded the attendance notes listed below. In addition, you have been left a memo from Kasha Patel.

- Document 1** Attendance note Donna Burke
- Document 2** Marriage certificate
- Document 3** Attendance note Dinesh Layak Choudray
- Document 4** Attendance note Victor Coleman



DOCUMENT 1

Client: Donna Burke
File: KP/7108/Burke/Divorce
Attended by: Yourself
Date: 10 June 2011
Engaged: 12 units

Attending Mrs Donna Brianne Burke of Lakeside House, Manor Drive, Kempston East.

The facts are as follows:

Mrs Donna Brianne Burke date of birth 10 May 1982.
Married to Phillip Tylar Burke date of birth 17 April 1982.
Date of marriage: 4 July 2006.

There are two children of the relationship namely:

Bruno Stephen born on 14 January 2006.
Kaitlynn Tula born on 15 September 2009.

Donna explained that she started a relationship with Phillip when they were sixteen years old and at school together. They have lived together at Lakeside House since they were eighteen years old. Phillip bought Lakeside House in his sole name before they were married. Donna undertook a beauty therapist course but only ever worked part-time as a manicurist before the marriage. She has relied on the income of Phillip, who is a golf professional. He is very successful and has been a millionaire from the age of about eighteen, winning money from tournaments around the world and income from sponsorship deals to promote a mobile phone company.

Over the past two years, there has been speculation in the national press as to whether Phillip has been having relationships with other women and he has been photographed in various newspapers socialising in nightclubs and bars with other women. At the end of tournaments, Phillip was never in a hurry to get home to see Donna and the children and he often stayed on in hotels, saying that he needed to unwind and celebrate with his friends.

When Donna has asked Phillip if they can spend more time together as a couple, he says that he is busy and suggests that she entertain herself by spending more money on clothes. Whilst he was generous with cash, Phillip would never allow Donna to have access to his bank accounts. Whenever Donna needed money she had to ask Phillip for cash as after they were married she was not allowed to have a bank account or credit card of her own.

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Two months ago, Donna had an emergency appendicitis operation. Donna had been in pain for two days and when she asked Phillip to drive her to the hospital, he refused saying that he had organised a night out with friends. Donna drove herself to the hospital, with the two children in the car. When she arrived at the hospital, she collapsed in the car park. Fortunately, this was witnessed by a passing paramedic who took her into the hospital and arranged for the children to be cared for by a nurse, until Phillip could be contacted.

Recently, Phillip suggested that the creases around Donna's eyes were beginning to show and that a celebrity golfer needed a 'model' wife. Phillip suggested that she have some plastic surgery undertaken in a private hospital in London.

Yesterday morning, Phillip came home drunk. When Donna asked him where he had been, he said "I don't need to answer to you. Pack your bags and get out of my house". When Donna replied "this is my house as well. I've got every right to be here", Phillip punched her in the face and started screaming "get out, get out, the house is in my name". Donna has significant bruising to her face. The incident was witnessed by Bruno and Kaitlynn who were eating their breakfast at the time.

Donna grabbed the children and left the house. Last night Donna stayed at her father's house which is a one bedroom bungalow in sheltered accommodation, so clearly not appropriate, but she had nowhere else to go. Furthermore, Kaitlynn has kidney failure and has her own dialysis machine in a specially equipped room in Lakeside House. Kaitlynn needs to use the dialysis machine twice a week, which Donna is trained to set up. Donna needs to return to the family home as Kaitlynn needs to use the machine. Donna has no money or access to a bank account. Phillip's parents have a four bedroom house at Oak Tree Farm, Thornbury, Bedford and enough space for him to stay. Indeed, he has enough money to rent or even to buy another property of his own.

Donna is reluctant to call the police because she believes the incident may be reported in the press and would cause Phillip bad publicity which would be frowned upon by his sponsors. Donna recognises any financial settlement she will get as a result of the breakdown of the relationship could be dependent on Phillip's sponsorship income.

Donna wishes to apply through the courts for a non-molestation order. She will pay privately from any monies she receives from her financial settlement and I am agreeable to such an arrangement. Her father will lend her the money for the court fees.

Donna had been considering divorce proceedings for some time and she will give this further thought. Again, her father will lend her the money for the issue fees and she will pay the costs from any settlement, in the event a costs order is not made.

DOCUMENT 2

[Printed by authority of the Registrar General]

D/12 097366

CERTIFIED COPY of an ENTRY OF MARRIAGE Pursuant to the Marriage Act 1949



**M. Cert.
Church**

Insert in this margin any notes which appear in the original entry

Registration District East Kempston								
2006 Marriage solemnized at The Methodist Chapel, East Kempston in the District of East Kempston in the County of Bedfordshire								
Columns:-	1	2	3	4	5	6	7	8
No.	When married	Name and surname	Age	Condition	Rank or profession	Residence at the time of marriage	Father's name and surname	Rank profession or of father
58	4th day of July 2006	Phillip Tylar Burke	24	Bachelor	Professional golfer	Lakeside House, Manor Drive, Kempston East.	Andrew Michael Burke	Engineer
		Donna Brianne Lowe	24	Spinster	Manicurist	Lakeside House, Manor Drive, Kempston East.	John Lowe	Cashier
Married in the Methodist Chapel according to the rites and ceremonies of the Methodists by certificate,								
This marriage was solemnized between us,		{ Phillip Tylar Burke Donna Brianne Lowe }		in the presence of us,		{ <i>Andrew Michael Burke</i> <i>Mr R Rector</i> John Lowe }		

Ronald Rector Authorised person under the Marriage Act, 1949, do hereby certify that this is a true copy of entry No 58 in the Register Book of Marriages in the above-named Building
WITNESS MY HAND this 4th day of July 2006 R Rector

State "Rector", "Vicar" or "Curate"

CAUTION: - It is an offence to falsify a certificate or to make or knowingly use a false certificate or a copy of a false certificate intending it to be accepted as genuine to the prejudice of any person or to possess a certificate knowing it to be false without lawful authority.



Client: Dinesh Layak Choudray
File: KP/6908/Choudray/Matrimonial
Attended by: Yourself
Date: 11 June, 2011
Engaged: 10 units

Attending Dinesh Layak Choudray of 74 Windmill Drive, East Kempston. Dinesh is an existing client and we have issued divorce proceedings on the grounds of adultery and the petition is uncontested. The Decree Nisi has been listed for hearing in two weeks. In the meantime, he and his wife, Gulab, have been to mediation in an effort to resolve financial matters but negotiations have broken down. Dinesh has been granted public funding to resolve financial matters.

The facts are as follows:

Dinesh Lyak Choudray date of birth 10 November 1955.
He is married to Gulab Choudray date of birth 4 September 1969.
Date of marriage 7 September 1991.

Dinesh is the primary carer of their two children:
Alisha born on 1 January 1996.
Imran born on 15 December 1998.

Dinesh is now a part-time cashier at a local supermarket earning £100 per week. He was made redundant in 2010 from a road construction company. He had only been working for that company for three years, so his redundancy sum was negligible and has been spent paying household bills. Dinesh worked part-time as an engineer so that he could take and pick up the children from school. This arrangement worked well for the family when the children were younger as Gulab's career looked promising and, given the difference in ages between them, it seemed to make sense that she pursue her career. The prospects of getting back into engineering at this present time are fairly bleak given the cutbacks in government spending. Dinesh has no pension provision.

Gulab left Dinesh about six months ago. She is the Principal of East Kemspton College and earns £100,000 p.a. She has a public sector pension which she has paid into since the age of 22. Gulab took up this post a year ago and, prior to that, she was an assistant head teacher in a secondary school. Gulab is now living with another man who is a local successful businessman and owns his own house.

The matrimonial home was purchased in 2007, it has three bedrooms. The property is worth £300,000 and there is a mortgage of £220,000 outstanding. It is unlikely that Dinesh could purchase anything cheaper to accommodate himself and the children. The mortgage payments are £500 per month and at the moment Gulab is paying the monthly mortgage instalments direct, but she is not paying any form of maintenance. However, she has made it clear during the mediation that she expects the house to be sold and the equity split. Dinesh is worried by such comments and wants to remain in the matrimonial home as he does not want the children to be unsettled.

We are instructed to issue ancillary relief proceedings now that funding has been granted. We discussed the documentary evidence that will be required to complete the Form E and the ancillary relief proceedings generally.

Client: Victor Coleman
File: KP/6999/Children case
Attended by: Yourself
Date: 11 June 2011
Engaged: 10 units

Attending Victor Coleman of 45 Bradwell Way, Bedford.

Victor explained that he had been in a relationship with Lisa Evans of 456 Derby Walk, East Kempston, Bedfordshire. The relationship with Lisa started when he was 24 years old and lasted three years. During their time together, many of Lisa's friends were getting married and Victor also felt under pressure to ask Lisa to marry him. However, Victor was enjoying life as a locum pharmacist. He had received a good salary and, as he did not have a fixed contract, this meant that he had the flexibility to travel the world. Sometime before Valentine's Day in 1997, Victor decided to end his relationship with Lisa. Little did he know that when he ended the relationship, Lisa was in the early stages of pregnancy and was carrying his child. After he ended the relationship, he went to work in Australia for a year and did not see Lisa again.

About two months ago, Lisa made contact with Victor through a social networking site. Lisa asked Victor to make urgent contact with her and left a mobile telephone number on which to make contact. Victor contacted Lisa and she explained that he was the father of their daughter, Charlotte, born on 1st September 1997. However, Charlotte required an urgent bone marrow transplant and Lisa asked if he would be tested for compatibility. Victor's family are Jewish. Whilst the news that he was the father of a child he had never met came as a total surprise to him, he was more than willing to be tested for the bone marrow transplant. It turned out that Victor was a compatible match and the procedure was successfully undertaken a month ago. Since then Charlotte has made contact with Victor by telephone and has indicated that she would like to see him. However, when Victor spoke to Lisa about arranging contact she was absolutely determined that she would not allow this to happen. Lisa said that she had done a good job bringing up Charlotte; she was successful at school and had a step-father who loved her as his own. Lisa said that there was no place for Victor in Charlotte's life.

Victor is now married and from that relationship he has an eight year old daughter called Felicity. He recently relocated to Bedfordshire and is employed as a chief pharmacist for a Bedfordshire hospital. He is aware that Charlotte attends East Kempston Grammar School but when he made contact with the school they would not allow him to see her school report.

Victor would very much like Charlotte to be part of his family. His parents are shocked by the news that they have a granddaughter that they have never seen. He, his wife, Felicity and Charlotte's paternal grandparents want Charlotte to be part of their life and for her to learn about her Jewish heritage.

Advice given on children matters.

End of Case Study Materials

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