

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 PRACTICE** and **LEVEL 3 PROFESSIONAL DIPLOMA IN LAW AND PRACTICE**

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Question 1

Reference: Question relates to **Documents 1, 2 & 3** of the case materials. Throughout this question assume that the client's insurance company is happy for us to act on behalf of the client.

- (a) The letter from Snapper & Co requests our client's insurance details. Why is our client required to provide these details and what would happen if they did not do so?

(2 marks)

- (b) On the assumption that our client's insurance details have been sent to Snapper & Co, how should the matter then proceed before a Claim Form is issued?

(5 marks)

- (c) Unfortunately the matter cannot be settled and the Claimant issues proceedings. Which track will the matter be allocated to?

(1 mark)

- (d) Upon whom is the burden of proof placed?

(1 mark)

- (e) The Claim has been allocated to the relevant track.

- (i) How are Directions likely to be dealt with?

(1 mark)

- (ii) List **three** relevant Directions explaining how they relate to the case.

(6 marks)

- (f) List **three** matters which would be considered on the Listing Questionnaire?

(3 marks)

- (g) How will costs be dealt with at the conclusion of this matter?

(4 marks)

(Total: 23 marks)

Question 2

Reference: Question relates to **Documents 1 & 4** of the case study material.

- (a) Despite writing to Magic Music Management Ltd there has been no reply and you decide to issue proceedings. What will need to be sent to the Court?
(4 marks)
- (b) How long does the Defendant have to file a Defence?
(2 marks)
- (c) If the Defendant failed to respond in time, what would you do to bring the claim to a conclusion?
(1 mark)
- (d) The Defendant does lodge a Defence in time but it is very weak. What procedure should you now adopt to try to bring the claim to an early conclusion?
(4 marks)
- (e) The matter proceeds to trial. Outline the usual order of events at trial.
(6 marks)
- (Total: 17 marks)**

Question 3

Reference: Question relates to **Documents 1 & 5** of the case study materials.

- (a) Who decides which track the case should be allocated to and when? Which track will this case be allocated to?
(3 marks)
- (b) List the Directions that would be made in this case following allocation.
(4 marks)
- (c) On the assumption that the claim is successful at trial, what costs are recoverable?
(3 marks)
- (Total: 10 marks)**

Question 4

Reference: Question relates to **Document 1** of the case study materials and is concerned with **Kathleen Fogerty**.

(a) In the contract that Kathleen Fogerty signed with Red Nightingale Surveyors, there is an arbitration clause. Briefly explain what arbitration is and how it works.

(4 marks)

(b) Name **one** other form of alternative dispute resolution (ADR).

(1 mark)

If the contract had not contained an arbitration clause, court proceedings would have been issued. Due to the complexity of the case it is likely to have been allocated to the Multi-track.

(c) How would the issue of costs normally be dealt with following a Multi-track trial?

(3 marks)

(Total: 8 marks)

Question 5

Reference: Question relates to **Document 1** of the case study materials and is concerned with **Donald Morgan** and **Close Call Paper Ltd**.

- (a) In relation to Donald Morgan, it is clear that a conditional fee agreement is likely to be the most appropriate form of funding. Briefly explain what is meant by such an agreement. **(4 marks)**
- (b) There are some concerns as to whether Sam Downing has sufficient funds to settle the judgment.
- (i) Identify what court procedure may assist Close Call Paper Ltd in finding out whether he is able to pay? **(1 mark)**
- (ii) Explain the procedure that will be followed. **(4 marks)**
- (c) You establish that Sam Downing will be able to meet the judgment. Consider the best way to enforce the judgment in the following separate circumstances:
- (i) The premises from which Sam Downing runs his printing business is owned by him. **(1 mark)**
- (ii) He has a bank account with at least £15,000 in it. **(1 mark)**
- (iii) Sam Downing collects antique printing presses which are worth in the region of £7,000. **(1 mark)**
- (Total: 12 marks)**

End of Examination Paper

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