

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**

Question 1

Reference: Question relates to **Documents 1 and 2** of the case materials and is concerned with **Harry Johnson**.

- (a) You have some reservations as to whether High Hat Building Ltd will be able to pay any damages awarded against it. List **three** sources of information which could be used to assist in deciding whether the building company is likely to have sufficient financial resources.
(3 marks)
- (b) On the assumption that the company will be able to pay any damages awarded against it, what are you required to do before you issue proceedings?
(1 mark)
- (c) Having issued proceedings the company lodges a weak Defence. How might you seek to bring the matter to an early conclusion and what procedure must be adopted to enable such an application to be made?
(5 marks)
- (d) Unfortunately you are not successful in your application and the case is allocated to the multi-track. When will directions be dealt with in this case?
(1 mark)
- (e) One of the directions relates to disclosure. How are documents disclosed and what are the **three** categories of document they are put into in this process?
(4 marks)
- (f) Mr Johnson would like to use the surveyor, Mr Bennington, as an expert witness in the case. What are the rules in relation to using expert evidence and can Mr Bennington act as an expert witness in this case?
(4 marks)
- (g) The Claimant must prove his case on the balance of probabilities. Explain what is meant by this phrase.
(1 mark)
- (h) 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 and 3** of the case materials and is concerned with **Abassi Okar**.

You should assume that the views of his employer will have no bearing on the decision to claim.

- (a) As this is a personal injury claim it might be appropriate for funding to take place through a Conditional Fee Arrangement. List **two** other sources of funding which might be used for this type of case.
- (b) Mr Okar is very keen to begin proceedings at the earliest opportunity. Why would this **not** be the appropriate step to take?
- (c) When you do begin proceedings, which documents will need to be sent to court?
- (d) Which track should the case be allocated to?
- (e) How should directions be dealt with in this case?
- (f) Once the case has been decided, how will the issue of costs be dealt with?

(2 marks)

(2 marks)

(5 marks)

(1 mark)

(1 mark)

(3 marks)

(Total: 14 marks)

Question 3

Reference: Question relates to **Documents 1 and 4** of the case study materials and is concerned with **Pervis Racing Ltd.**

- (a) No satisfactory response has been received from Kenny Diamond and so it is decided to commence proceedings.

Complete the attached N1 Claim Form (**Document A**). **DO NOT DRAFT THE PARTICULARS OF CLAIM**, you may assume they are attached.

Important: Write your Candidate number clearly on Document A and attach it securely to your answer booklet.

(8 marks)

- (b) How long will Kenny Diamond have to file a Defence?

(2 marks)

- (c) If Kenny Diamond fails to file a Defence, how can the Claimant bring the matter to an early conclusion?

(3 marks)

(Total: 13 marks)

Question 4

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

- (a) You have now had the opportunity to look at the contract Tayaba has with her supplier. There is an arbitration clause in the contract and Tayaba would like to know what this means. Explain to her the effect of an arbitration clause and the common elements of the process of arbitration.

(5 marks)

- (b) Identify **three** advantages of using any form of alternative dispute resolution (ADR).

(3 marks)

(Total: 8 marks)

Question 5

Reference: Question relates to **Documents 1 and 5** of the case materials and is concerned with **Tracey King**.

(a) Tracey King says she cannot pay the judgment debt. Advise her on the likely process Julian Mobbs will use to obtain information about her current financial situation.

(4 marks)

(b) Explain to Tracey King what would be the appropriate method of enforcement in the following situations and outline the process involved:

(i) Tracey King owns a house in which she lives.

(4 marks)

(ii) She has various stock in her shop.

(4 marks)

(Total: 12 marks)

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Claim No.

Does, or will, your claim include any issues under the Human Rights Act 1998? Yes No

Particulars of Claim (attached)(to follow)

Statement of Truth

*(I believe)(The Claimant believes) that the facts stated in these particulars of claim are true.

* I am duly authorised by the claimant to sign this statement

Full name _____

Name of claimant's solicitor's firm _____

Signed _____ position or office held _____

*Claimant)(Litigation friend)(Claimant's solicitor) (if signing on behalf of firm or company)

* delete as appropriate

Claimant's or claimant's solicitor's address to which documents or payments should be sent if different from overleaf including (if appropriate) details of DX, fax or email.