

CASE STUDY MATERIALS

June 2012
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 watermark in the top right corner that reads "StudentBounty.com" in a grey, sans-serif font.

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, The Manor House, Bedford, MK42 7AB. The firm is a 'high street' practice with a large matrimonial client base. It 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 have assembled the documents listed below

- Document 1** Attendance note Sally Davis.
- Document 2** Attendance note Joanne Balcher.
- Document 3** Email re Joanne Balcher.
- Document 4** Attendance note Abida and Imran Khan.

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DOCUMENT 1

ATTENDANCE NOTE

Client: Sally Davis
File: KP/5876/Domestic violence
Attended by: Yourself
Date: 4 June 2012
Engaged: 10 units

Attending Sally Davis of 1 Priory Street, East Bedford

The facts are as follows:

Sally Davis date of birth 18 August 1992
Married to David Davis date of birth 24 November 1992

There is one child of the relationship:

Joshua Davis born 2 April 2009

Sally explained that she started a relationship with David five years ago when they were still at school. They both left school at the age of 16, and they started living together. When Sally became pregnant with Joshua, David insisted that they should get married.

They currently live with Joshua in a one bedroom flat.

Over the past six months their relationship has deteriorated. The problems started when the local steel plant, the largest employer in the area, closed and David lost his job. The closure has resulted in a high level of unemployment in the area and David has been unable to find another job. Sally works part-time in a local supermarket, while David looks after Joshua, but they find it difficult to manage financially. David is finding it difficult to cope with an active toddler in a small flat and has begun drinking heavily.

When David has been drinking he loses his temper very quickly, shouting at Sally and Joshua, punching the wall with his fist and threatening Sally, saying that he will "sort her out". Sally has become increasingly concerned that he will actually be physically violent to her.

Sally is also worried about her son. Joshua is a very happy toddler, and had settled into a good routine of sleeping through the night at an early age. However, he has recently been very unsettled at night and appears to be having nightmares.

Matters reached a climax following a particularly frightening event two weeks ago, when David took a knife out of the kitchen drawer and threatened to 're-model' Sally's face. When she screamed, he dropped the knife and slapped her several times across the face. Sally decided to leave the flat immediately with Joshua and went to stay with her parents.

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Since then, David has phoned her mobile phone on numerous occasions. He has spoken to him and he has asked her to return to the flat, saying that they can work things out. But so far Sally has refused to return and David has become angry again and made threats against her on the phone. Sally has currently stopped taking his phone calls, but the threatening messages are continuing.

Sally's parents live in a small three bedroom house with her younger brother and sister, so Sally and Joshua are having to sleep on the living room floor. Sally is finding it quite difficult to manage, and wants to return to her own flat. However, she does not want to return there if David is still living there. David, who is an only child, has a good relationship with his parents. They also live locally, in a large four bedroom house, so David does have the option of moving in with them.

Sally has previously contacted the police but so far they have not taken any action.

DOCUMENT 2

ATTENDANCE NOTE

Client: Joanne Balcher
File: KP/5492/Divorce
Attended by: Yourself
Date: 4 June 2012
Engaged: 10 units

Attending Joanne Balcher of Church Farm, Little Kempston, Bedford.

The facts are as follows:

Joanne Balcher date of birth 13 April 1976
Married to Kevin Balcher date of birth 21 June 1976

There are two children of the relationship namely:

Thomas born 28 December 2002
Leticia (Letty) Ann born 18 July 2004

Joanne and Kevin were married 29 June 1997

Kevin and Joanne met at university, and married following graduation. Kevin got a well paid job and gained promotions; Joanne completed her training as an accountant. Five years after marriage, Kevin's father died suddenly and he reluctantly agreed to return home to run the family farm business. Kevin and Joanne moved into the farmhouse. His mother, Patricia, moved into a neighbouring cottage. As Joanne's job involved a lot of travelling, it was agreed that Joanne would give up her career and stay at home as full-time wife and mother supporting Kevin in running the farm and keeping Patricia company. Joanne also wanted to start a family and felt that this would be easier without the pressures of a busy job. However, living with Patricia as a near neighbour has put a strain on the marriage.

Patricia visited the farmhouse several times a day, treating it as if it was still her own home. She was fiercely critical of any changes Joanne attempted to make to the farmhouse. Patricia criticised everything that she did; the way she managed the house, cooked and the way she was bringing up the children. Joanne told Kevin that this was starting to have a serious effect on her. However, Kevin would not support Joanne, telling her that she needed to listen to his mother's advice. This was creating increasing tension between them.

Joanne no longer has an income of her own. Kevin prefers to manage the bank accounts, as his father did before him. Kevin provides Joanne with a housekeeping allowance, which with a growing family, is never enough. However, whenever Joanne asks for more, Kevin gets irate and simply accuses her of not managing well enough. Joanne has asked Kevin to go shopping with her so that she can demonstrate the problem, but he refuses saying Patricia considers shopping to be women's work!

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Eventually, feeling that she needed to develop a life of her own outside the home, Joanne broached the subject of possibly returning to work on a part-time basis, but Kevin will not consider this, again reflecting Patricia's view that a woman's place is in the home.

Kevin has joined the local darts team, and regularly takes part in competitions at his local pub and traveling to matches in other areas. But when Joanne suggested that they might benefit from going out together, Kevin told her that he did not see the point, and did not have the time.

Joanne tells you that after a particularly fiery argument some 20 months ago, Kevin moved out and has since been staying with his mother, Patricia. Recently, he told Joanne that he cannot see things changing, unless Joanne changes her attitude and, unless she can change her ways, she should leave the matrimonial home.

Since then, at Joanne's request, the parties have met and have discussed their relationship and have agreed that the marriage is over. Kevin says that whilst he and Joanne had a good relationship initially, he does not feel that Joanne has really tried to adapt to the life he has returned to. He feels that he no longer loves Joanne and wishes to avoid any further hurt. Joanne feels that Kevin is so heavily influenced by his mother, that there is no hope of repairing the relationship.

Joanne is currently claiming state benefits.

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DOCUMENT 3

EMAIL

From: Becky Smith
To: Yourself
Date: 11 June 2012
Re: Joanne Balcher

Joanne Balcher called to thank you for your time and for the advice given at your recent meeting; and to say that she wanted to discuss matters further.

She has spoken to her husband, who has told her that he has confirmed with his solicitor that he wishes to proceed with a divorce. Kevin has also indicated that he is willing to ensure that suitable financial provision is made for Joanne and the children. However, Joanne is a little concerned, in the light of her previous experience of her husband's attitude to money, about what he considers suitable provision.

Joanne believes that the family farm is currently worth approximately £3.5 million pounds. The annual profit is approximately £100,000, although this can vary slightly from year to year. The farm is owned by Kevin and his mother, Patricia. Kevin owns 75% of the farm and his mother owns 25%. The annual profits are also shared, 75% to Kevin and 25% to Patricia. Although Kevin has yet to make any pension provision, he was insistent that his children attend a local private school where he was educated. The school fees are currently £2,500 per term for each child.

In addition to the business assets, Joanne and Kevin have joint savings, which have also been controlled by Kevin. These savings came from the sale of their house, prior to their move to the family farm. Joanne recalls that they made a profit of £120,000 from the sale, which Kevin has invested and managed. She believes that the investment should currently be worth £150,000.

Joanne has no income of her own. She has not worked since the birth of Thomas. She has now decided that she wishes to continue as a full-time mother to her children for the foreseeable future.

Kevin also told Joanne that he feels that, for business reasons he should move back to live in the farmhouse with Patricia, which would leave the cottage vacant.

Please call her back as soon as possible as she is very concerned about her financial position.

Time: 2 units

DOCUMENT 4

ATTENDANCE NOTE

Client: Abida and Imran Khan
File: KP/5876/Khan/Child case
Attended by: Yourself
Date: 4 June 2012
Engaged: 10 units

Attending Abida and Imran Khan of 59 Eastern Avenue, Bedford.

Mr Khan explained that he and his wife have one son, Mahmood, and a grand daughter, Husna, aged 8 years.

While Mahmood was attending his local college he met Susie and started a relationship. Susie became pregnant and had a daughter, Husna. Unfortunately, Susie also developed a drug habit, and it eventually became apparent that she was unable to look after Husna.

Mahmood tried to look after Husna himself, but when Husna was 4 years old it was agreed that she would move in with his parents, so that they could care for Husna, whilst Mahmood worked to support himself and his daughter.

Since this time, Husna's grandparents, Abida and Imran have taken responsibility for looking after her and she has had no contact with her mother.

Mahmood has been working locally, but nine months ago he got a new job some 200 miles away from his parents' home in Bedford. Over recent months he has spent little time with his daughter. Mahmood has now told his parents that he has a new partner, Fatima, whom he is planning to marry. During a recent telephone conversation, Mahmood told his parents that once he was married, his plan was for Husna to live with himself and Fatima.

Husna herself has been quite upset since hearing her grandparents discussing the plan. She has become less outgoing, preferring to stay at home with her grandmother whenever possible. Husna is also not sleeping well, and appears to be having nightmares.

Abida and Imran are very concerned about the impact that such a move will have on Husna. After a very unsettling start to her life, Husna has settled well in her grandparents' home and now views it as her home. She has got to know members of her extended family who live locally, and regularly visits cousins who are of a similar age to her. Husna attends the local school which has an excellent reputation and has made many friends there. She is developing a keen interest in swimming, and has just become a member of the junior swimming club near her home. The coach is very impressed with her progress and predicts that she is potential future Olympic material.

Abida and Imran are also concerned about a rumour that her mother, who has undergone a successful drug rehabilitation programme, has said that there is no way that she will allow her daughter to live with Mahmood's new partner, Fatima.

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They are also concerned that Fatima, who is a qualified Legal Executive working for a multi-national law firm, has indicated that she plans to continue with her career, even if she and Mahmood start a family.

Abida and Imran have been talking with close family and wish to know whether they can apply through the courts for a residence order. They are also worried about making a formal application to the court, and want reassurance about how things might be started.

Advice given.

End of Case Study Materials

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