

CASE STUDY MATERIALS

June 2012
Level 3
CIVIL LITIGATION
Subject Code L3-9

ilex

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INSTITUTE OF LEGAL EXECUTIVES

UNIT 9 – CIVIL LITIGATION*

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.

Turn over

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

CASE STUDY MATERIALS

ADVANCE INSTRUCTIONS TO CANDIDATES

You are a trainee Legal Executive in the firm of Kempstons of Manor House, Bedford, MK42 7AB. You are part of the civil litigation team and your supervising partner is Hillary Kent.

You know that Hillary will not be at work this week due to her annual leave entitlement and she has left a number of files that you will need to work on.

Document 1 - Memorandum

Document 2 - Draft initial witness statement of Harry Johnson

Document 3 - Email from Abassi Okar to Hillary Kent

Document 4 - Letter from Pervis Racing Ltd to Kenny Diamond

Document 5 - Letter from Julian Mobbs to Tracey King

DOCUMENT 1

MEMORANDUM

To: Trainee Legal Executive
From: Hillary Kent
Re: Work for this Week

Just a reminder about the specific cases you will need to look at while I am on annual leave.

Harry Johnson

Mr Johnson came in a few days ago and I took an initial witness statement from him (**Document 2**). Please move the matter on in my absence.

Abassi Okar

You will see a copy of the email (**Document 3**) that I received from Mr Okar in relation to his recent accident. Please arrange a meeting with him and answer his questions.

Pervis Racing Ltd

Mr Luke Pervis sells high specification bespoke road race bicycles and has sold one to Kenny Diamond for £5,495. Luke Pervis has sent a letter (**Document 4**) requesting payment of the outstanding £5,200. Please begin proceedings to recover the outstanding monies; a copy of the invoice is on the file.

Tayaba Iqbal

Ms Iqbal has made an appointment to see me this week and rather than delay the meeting until I return I would like you to interview her. Essentially she runs a car dealership and she is having some problems with her main supplier. She is bringing the contract in with her so please advise her accordingly once you have seen it.

Tracey King

You will find a letter on the file from Julian Mobbs (**Document 5**). Our client defended a case which we had advised her to settle and she subsequently lost. She is currently having a severe cash flow problem and she is not able to pay the judgment debt. She will want some advice on what options are open to Julian Mobbs to enforce his judgment. Make sure you make it clear to the client that if possible she should find the money from somewhere rather than face enforcement procedures.

Draft Initial Witness Statement of Harry Johnson:

I, Harry Johnson, an office manager, of 38 Dillington Road, Bedford will say:

1. In early March 2011 I discussed with my elderly mother the prospect of her moving to a specially built annex on my property which was to consist of three small rooms. She agreed that it would be a good idea and I proceeded to draw up some plans for the proposed extension.
2. On 24 August 2011 planning permission was granted for the annex to be built and I proceeded to consider a suitable builder to carry out the building work. I approached several builders and High Hat Building Ltd gave the most reasonable quote of £31,000. I carried out further investigations concerning the quality of work undertaken by the company and was reassured by a previous customer that it was of a high standard. The previous customer was referred to me by the managing director of High Hat Building Ltd, Jeremy Radcliffe.
3. I gave instructions to the company to begin work. The builders began work on 25 October 2011. To my knowledge there were four men working on site and Jeremy Radcliffe was present at all times to supervise.
4. In late January 2012 the external shell of the annex had been finished and the internal decoration was projected to be finished by the second week in February. I was initially very pleased with how quickly the work had been carried out and when the internal decoration was finished a week early I could see why previous customers were so pleased with the standard of work that High Hat Building Ltd carried out. I paid the outstanding monies to Jeremy Radcliffe personally on completion of the work.
5. My mother gave up her rented accommodation and moved into the annex on 25 February 2012. For approximately six weeks she was happy in the annex and I was pleased that she was now living where I could easily check on her to make sure she was alright.
6. On 4 April 2012 at approximately 3.00am I was awakened by my mother's screams and a very loud crash. I rushed from my bedroom down to the annex and was aghast to see that the roof on the property had fallen in. I frantically searched for my mother and found her unharmed in her bedroom. I got my mother out of the building and into the main house.
7. Later on the morning of 4 April I arranged for a representative of Hotspur Surveyors, Mr L Bennington, to visit the annex. He arrived the following day at about 10.00am and after inspecting the annex stated that a wall had collapsed bringing down some of the roof with it. The wall had not been constructed to a safe and proper standard and it was only a matter of time before it collapsed. On inspection of the other walls of the annex he stated that they were not much better and they would need a great deal of remedial work. I was shocked at what I heard.

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8. I immediately contacted Mr Jeremy Radcliffe by telephone. He did not to discuss the problem with me apart from saying on the telephone that was probably my daft old mother leaving the gas on that caused the collapse and then putting the telephone down. I totally dispute this was the case and it is obvious that the collapse was caused by the poor work carried out by High Hat Building Ltd.
9. I have since found out that the customer I contacted through Jeremy Radcliffe was in fact his brother in law and to my knowledge had had no building work carried out at his property.
10. I have been informed that to rebuild the annex, making safe the remaining walls and replacing the roof, will cost £21,000. Luckily there was little damage to the interior as the wall fell outwards rather than inwards.
11. I am therefore seeking the sum of £23,000 to repair the annex and a further £2,700 to redecorate and replace some items that were broken during the collapse. I hold High Hat Building Ltd wholly responsible for the damage caused.

The contents of this statement are true.

EMAIL

To: hillary.kent@kempstons.org

From: a.okar@url.co.uk

Date: Today's date

Re: Accident at Work

Hello Hillary

Thanks for taking my phone call last week about my accident at work. I have talked things over with my wife and I would like you to act for me provided my employer is ok with it. My employer has, after all, carried on paying my wages while I have been off and now I am back at work they cannot do enough to help. I don't seem to be out of pocket at all but still feel I should receive something for the injury I had.

I have a couple of questions about what happens next.

I am still not sure how I am going to afford to pay for this. It seems to me that it will cost a lot of money to get back the £3,000 you think my injury is worth. I know I cannot afford it.

Secondly, I would like to get the compensation as soon as possible so please start proceedings straight away, providing we can sort out the costs.

I look forward to hearing from you soon.

Regards

Abassi Okar

Letter from Pervis Racing Ltd to Kenny Diamond

PERVIS RACING LTD

Unit 3 Park Industrial Estate

Kempston

MK11 5AG

Kenny Diamond
11 Race View
Kempston
MK13 7AL

17 May 2012

Dear Mr Diamond

Re: Outstanding Invoice

Further to your purchase of a bespoke thunderbolt racing bike, the outstanding balance of £5,200 has now been due for more than six weeks. Despite repeated telephone calls you have failed to contact us and advise us when the monies will be provided.

As such we have no other option than to give you 21 days notice that if payment is not made in that time we will begin court proceedings for the recovery of the outstanding money.

Yours sincerely

Luke Pervis

Luke Pervis, Managing Director

Registered in England & Wales Co. Number: 04506759

Letter from Julian Mobbs to Tracey King

Julian Mobbs
3 Boston Mews
Kempston
MK11 3FD

6 June 2012

Tracey King
HiFi LOWFi
14 Carter Avenue
Bedford
MK14 4AD

Dear Madam

Re: Judgment Debt

I cannot believe that despite having succeeded in beating you in court you still refuse to pay the money you owe me. The HiFi you sold me was rubbish and the judge agreed so I want my £950 back.

I am out of the country for the next two weeks and I had better have the money when I return or I will be going back to court to get justice.

Regards

Julian Mobbs