



THE CHARTERED 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 CILEx 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 CILEx qualifications: **LEVEL 3 CERTIFICATE IN LAW AND PRACTICE** and **LEVEL 3 PROFESSIONAL DIPLOMA IN LAW AND PRACTICE**

Question 1

Reference: Question relates to **Document 1** of the case study materials.

Assume that Bright Tree Gardening Services is a trading name and is owned and run by Harry Tomkins.

- (a) In the present case what is the basis and purpose of bringing a civil litigation claim?
(2 marks)
- (b) Sally Greaves' insurance company has agreed for Kempstons to act on this matter. What type of funding arrangement would she have had in place for the insurance company to pay our costs?
(1 mark)
- (c) If there had been an arbitration clause in the agreement between the parties, then both parties would have had to go to arbitration instead of to court. List three advantages of arbitration.
(3 marks)
- (d) The appropriate track for this matter is the small claims. Explain what standard directions would be used in this matter.
(4 marks)
- (e) On the assumption that the claim is successful at trial, consider in each of the following situations which method of enforcement would be most appropriate if Harry Tomkins failed to pay the judgment:
- (i) He owns his own house.
 - (ii) He has a building society account with £2,000 in it.
 - (iii) He has a car.

(3 marks)

(Total: 13 marks)

Question 2

Reference: Question relates to **Document 2** of the case study materials.

- (a) Your client Balraj Nakul wants you to issue proceedings straight away. Explain whether you can do so.
(2 marks)
- (b) The matter continues and proceedings are issued. How long will the Defendant have to file a Defence?
(2 marks)
- (c) If the Defendant fails to file a Defence, identify and outline the procedure to be adopted by the Claimant.
(4 marks)
- (d) The Defendant does file a Defence and the matter continues. The case is subsequently allocated to the Fast Track. How are Directions dealt with in the Fast Track and list three relevant Directions?
(4 marks)
- (e) Your client is successful at trial. Explain how the matter of costs will be dealt with.
(4 marks)

(Total: 16 marks)

Turn over

Question 3

Reference: Question relates to **Document 3** of the case study materials.

- (a) Which track will this case be allocated to?
(1 mark)
- (b) Your clients wish to begin the action as soon as possible. By issuing proceedings straight away, what effect may this have and what steps should you take?
(2 marks)
- (c) In what ways can service of proceedings take place?
(3 marks)
- (d) We have the draft witness statement on file from James Surtees. To ensure it will be valid for court proceedings draft the statement of truth **only** (in your answer booklet) for James Surtees' statement.
(3 marks)
- (e) How are issues concerning pre-trial usually dealt with? List two matters which would be considered.
(3 marks)
- (f) Your client is successful in their claim. Explain how costs are likely to be dealt with in this matter.
(4 marks)

(Total: 16 marks)

Question 4

Reference: Question relates to **Document 4** of the case study materials. The value of the claim is £9,000.

- (a) Identify and outline what process you will need to go through before you may issue proceedings.
(8 marks)
- (b) Liability is denied, proceedings are issued and a Defence is filed. However, the Defence itself is unclear. Explain what you would do next and on what basis such action is taken.
(3 marks)

(Total: 11 marks)

Question 5

Reference: Question relates to **Document 5** of the case study materials.

Proceedings are issued, the Claimant claims that your client was made fully aware of the change in the engine capacity of the car and he decided to purchase the car regardless.

(a) Your client informs you that his business is not doing particularly well at the moment and he would like to make use of public funding if at all possible. Explain on what basis public funding is made available and whether he would be eligible.

(3 marks)

(b) You believe that the Claim is weak and you decide to apply for Summary Judgment. Explain the procedure involved and the possible outcomes of such an application.

(4 marks)

(c) The application is not successful and the matter proceeds. Consequently the matter needs to be allocated to a track. List four matters which would be considered on the Allocation Questionnaire.

(4 marks)

(d) The case is allocated to the Fast Track. If you needed to compel a witness to attend court how would you achieve this?

(3 marks)

(Total: 14 marks)

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