



## 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 **Documents 1, 2 and 3** of the case materials and is concerned with **Laith Sudworth**.

- (a) If the supermarket had **not** complied with the pre-action protocol, what sanctions could the Court impose?  
**(4 marks)**
- (b) **Documents 2 and 3** both contain a Statement of Truth.
- (i) Why are such statements important?
- (ii) What are the potential consequences if the content of a document with a Statement of Truth is subsequently found to be untrue?  
**(3 marks)**
- (c) The matter proceeds in the Fast Track and Standard Directions are issued. One of the directions relates to disclosure. Explain how disclosure takes place and the sections into which documents are categorised.  
**(6 marks)**
- (d) The directions have been followed by both parties and the matter is listed for trial. The Claimant is required to prepare the trial bundles. Explain what trial bundles are and who is entitled to a copy.  
**(4 marks)**
- (e) The Claimant is successful in his claim. Who is likely to be awarded costs in the case and on what basis?  
**(4 marks)**

**(Total: 21 marks)**

## Question 2

Reference: Question relates to **Documents 1 and 4** of the case materials and is concerned with **Carlita Riccelli**. On interviewing her and on considering the Survey Report, you believe she has an arguable case. The remedial action required to her property will cost about £27,000.

- (a) Explain the funding options open to Carlita Riccelli in these circumstances.

**(6 marks)**

- (b) You issue proceedings and await the Defence. Explain to your client what you could do if the Defendant failed to serve a Defence within the prescribed time limit.

**(3 marks)**

- (c) The Defendant does serve a Defence and the case is allocated to the Multi Track. How are directions dealt with on this track?

**(3 marks)**

- (d) One of the directions made by the Court relates to the use of a surveyor as an Expert Witness. The parties have been permitted to instruct their own expert. Explain the procedure for raising questions on the Defendant's Expert Report.

**(3 marks)**

- (e) The Defendant has failed to follow one of the directions. What options does the Court have in respect of a failure to comply?

**(4 marks)**

**(Total: 19 marks)**

### Question 3

Reference: Question relates to **Documents 1 and 5** of the case materials and is concerned with **DFL Wired Electrics Ltd.**

- (a) No satisfactory response having been received from Gail Teel 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 the inside of your answer booklet.**

**(8 marks)**

- (b) A Defence is subsequently served, however it is a mere denial of liability. Explain how an application for Summary Judgment is made.

**(5 marks)**

- (c) The application for Summary Judgment is granted but Gail Teel fails to pay the Judgment Debt. Consider the best way to enforce the judgment in the following circumstances, explaining how the application is made:

- (i) Gail Teel has a vintage car worth in excess of £13,000.

**(3 marks)**

- (ii) She has £15,000 in a savings account at Kempston Bank.

**(3 marks)**

**(Total: 19 marks)**

**Question 4**

Reference: Question relates to **Documents 1 and 6** of the case materials and is concerned with **Madu Azikiwe Trading As Chippy Bang Bang**. Having looked through the documentation, you see that there is a signed contract but that it is silent on the issue of notice therefore it is unclear whether or not he is liable.

HP Samson Ltd subsequently issue proceedings for the sum of £30,000 for breach of contract.

- (a) (i) What alternatives are available to your client apart from fully defending the claim?
- (ii) Due to the uncertainty of any outcome in relation to the issue of notice, explain which alternative would be the most appropriate.

**(3 marks)**

- (b) Against your advice your client decides to defend the case. How long will he have to file a Defence?

**(2 marks)**

- (c) The matter proceeds to trial and your client is unsuccessful in defending the Claim. Explain how the matter of costs was dealt with throughout the case up to, but not including, the final hearing.

**(4 marks)**

- (d) You advise Madu Azikiwe that in the future he should make more use of Alternative Dispute Resolution (ADR) in his business dealings. Give two relevant examples of ADR which he could use in the future.

**(2 marks)**

**(Total: 11 marks)**

**Turn over**

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Candidate number: .....  
**DOCUMENT A**  
**N1 Claim Form to be used with Question 3(a)**



# Claim Form

|        |  |
|--------|--|
| In the |  |
|--------|--|

|            |                           |
|------------|---------------------------|
|            | <i>for court use only</i> |
| Claim No.  |                           |
| Issue date |                           |

Claimant(s) name(s) and address(es) including postcode



Defendant(s) name and address(es) including postcode

Brief details of claim

Value

You must indicate your preferred court for hearings here (*see notes for guidance*)

Defendant's name and address for service including postcode

|  |
|--|
|  |
|--|

|                   |   |
|-------------------|---|
|                   | £ |
| Amount claimed    |   |
| Court fee         |   |
| Solicitor's costs |   |
| Total amount      |   |

When corresponding with the court, please address forms or letters to the Court Manager and quote the claim number.

|           |  |
|-----------|--|
| 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 e-mail.

**End of Examination Paper**