

CASE STUDY MATERIALS

June 2011
Level 6
PRACTICE OF FAMILY LAW
Subject Code L6-20

ilex

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INSTITUTE OF LEGAL EXECUTIVES
UNIT 20 - 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.

Turn over

* This unit is a component of the following ILEX qualifications: **LEVEL 6 CERTIFICATE IN LAW, LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE** and the **LEVEL 6 DIPLOMA IN LEGAL**

ADVANCE INSTRUCTIONS TO STUDENTS

You are a trainee Legal Executive employed by the firm Kempstons of The Manor House, Bedford MK42 7AB. The firm's telephone number is (01234) 622964; fax (01234) 622965 and their DX address is Bedford 3721. The firm is a high street practice and one-third of the firm's caseload consists of matrimonial work. The matrimonial team at Kempstons is headed up by your supervising solicitor Jenny Morris. The firm has a contract from the Legal Services Commission to undertake family work. The local court which is also the designated divorce county court is Bedford County Court.

You arrive at work to find the following documents on your desk:

- Document 1** Memo from supervising solicitor, Jenny Morris
- Document 2** Attendance note re Tracey Walker
- Document 3** Attendance note re Annette Baker
- Document 4** Letter from Howard & Co. solicitors
- Document 5** Telephone attendance note re Mr and Mrs Cohen

DOCUMENT 1

Memorandum

To: Trainee Legal Executive
From: Jenny Morris
Date: 17 June 2011
Re: Matters to be attended to in my absence

As we discussed, I am on annual leave for the next fortnight and I would be grateful if you could please attend to the following cases during my absence from the office: -

1. Tracey Walker

Tracey Walker is a new client. She attended at the office yesterday morning following an incident of violence. I attach the attendance note for your information (**Document 2**).

2. Annette Baker

I have conducted Annette's divorce proceedings and am currently trying to resolve the ancillary finances. I attach an attendance note detailing my meeting with her last week (**Document 3**). Since meeting with Annette I have received a letter from her husband's solicitors (**Document 4**) and have sent a copy to her. Annette has made an appointment to discuss matters later this week and I would be grateful if you could please see her in my absence.

3. Samuel and Rebekah Cohen

Mrs Cohen telephoned the office late yesterday afternoon to request an appointment. I attach a copy of this telephone attendance note (**Document 5**). Could you please arrange an appointment for the Cohens to see you as soon as possible?

Kind regards,

Jenny

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DOCUMENT 2

(Attendance note re: Tracey Walker)

Client: Tracey Walker

Date: 16 June 2011

Fee earner: Jenny Morris

File ref: JCM/LR/W2401

Time taken: 1 hour

Attendance upon Tracey Walker who was seeking advice following incidents of domestic abuse. Tracey is a new client. We have completed the necessary conflict checks and obtained the proof of identity documentation. I noted that Tracey had cuts and bruises to her face and arms.

Her details are as follows: -

Full Name: Tracey Dawn Walker

D.O.B.: 10/05/1985

Address: 5 Cavendish Road, Clayton, Barnardshire BH10 6KJ

Temporary address: 23 Westminster Crescent, Clayton, Barnardshire BH10 6RL
(Sister's)

Phone number: 079237 16496 (mobile)

Occupation: Unemployed

Tracey has been married to her husband Lee David Walker (d.o.b. 13/10/84) for six years. They have 2 children: Casey Amy Walker (d.o.b. 15/09/07) and Ethan Michael Walker (d.o.b. 02/03/09).

The matrimonial home is a private rented 3 bedroom property and the tenancy is held in the couple's joint names. The couple's landlord is Mr Martin Evans of 46 Linnet Avenue, Clayton, Barnardshire. Tracey is unemployed. Lee is a self-employed painter and decorator. Tracey has savings of £500 in her sole name. Lee has a number of savings accounts in his sole name which Tracey estimates are worth £6,500 together with the tools of his trade.

Problems started about two years ago after their son Ethan was born. Tracey found it difficult to cope with the two children on her own. She felt that she received no help or support from Lee who was out at work for long hours. Lee began criticising Tracey's appearance saying that she had let herself go and was fat and ugly. He would take her to task about the state of the house complaining that it was untidy and that she was lazy and a "useless wife".

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By 2010 Lee had started to spend more and more time away from the home. Tracey began to suspect that he was having an affair. At the end of April she confronted him about it and he initially denied it. When she refused to believe him he eventually admitted that he had had an affair with another woman but he told her that it was now over. After Lee's admission the couple had a heated argument during which Lee punched Tracey in the face, giving her a black-eye. Tracey was very shocked by Lee's violence and his admission and she moved out to her sister's home for a few days, taking the children with her. After the incident Lee was very apologetic and begged Tracey to return home, promising that he would never hit her again and that he would be faithful.

In early May 2010, following Tracey's return, matters did seem to improve and the parties reconciled. Tracey felt that Lee seemed to be making a real effort to make the marriage work. However about 6 months ago, Lee's business started to suffer financial problems and he began to suffer from mood-swings which were exacerbated by him drinking heavily. The couple began arguing frequently about money and often these arguments resulted in Lee hitting Tracey. Tracey would suffer quite severe bruising to her body from these attacks.

Although the children have not directly witnessed the violence they have seen the couple arguing and Tracey is concerned about the effect that this is having on Casey and Ethan. The couple have been arguing a lot recently due to the fact that Tracey has discovered that Lee is in fact still having an affair with the same woman. Tracey has found out that her name is Nicola Jones.

Tracey is also worried that the violence is escalating. Two weeks ago whilst they were arguing about Lee's affair with Nicola, Lee pinned Tracey against the wall and waved a kitchen knife in her face. She sustained cuts to her arms trying to fight him off. Last night during a further argument about Nicola, Lee seemed to lose control and began punching Tracey repeatedly about the face and body, shouting that she was a liability and that he would be better off without her. When she tried to get away from him by running upstairs he grabbed her legs and dragged her back down the stairs. He told her that if she told anyone she would "live to regret it".

This morning when Lee left for work, Tracey got some of her and the children's belongings together and went to her sister's house. Her sister lives in a 2 bedroom flat with her 7 year old daughter. Tracey does not want to return to the matrimonial home. Lee's parents live in a 3 bedroom property (10 Ince Drive, Clayton, BH10 6LT) which is on the same housing estate in Clayton as the parties' home.

Tracey did telephone the local police station from her sister's this morning and was told that unfortunately the domestic abuse liaison officer was currently off ill. The police officer that Tracey spoke to suggested that because the matter was urgent she should see a solicitor instead.

Used devolved powers to grant Tracey emergency legal representation.

I advised Tracey to see her Doctor about the cuts and the bruising to her body.

DOCUMENT 3

(Attendance note re: Annette Baker)

Client: Annette Baker

Date: 8 June 2011

Fee earner: Jenny Morris

File ref: JCM/LR/B1926

Time taken: 1 hour

Attended upon Annette. I confirmed to her that I had received confirmation from the court that the Decree Nisi had been pronounced in relation to her 2 year separation petition last week. I explained that her husband, Phil would also have received notification of the pronouncement from his solicitors. Noted that I had diaried the date for making the application for Decree Absolute on her behalf and would contact her with the necessary forms in due course.

I updated Annette on the progress of her application for ancillary relief. I explained that following our attendance at court in April for the First Appointment we had received her husband's replies to her questionnaire together with the joint valuation of the matrimonial home. I noted that the valuers had suggested a figure of £340,000 which she thought sounded fair for a 3 bedroom property on their estate. I confirmed that we should check that her husband also agreed this figure in readiness for the FDR in three weeks time.

We ran through a summary of the parties' assets: -

- Former matrimonial home: 48 Lincoln Drive, Clayton: held in the parties' joint names and valued at £340,000
less mortgage of £190,000
: net equity £150,000
- Joint life assurance policy with a surrender value of £25,000
- Shares in Phil's sole name £25,000
- Savings in Phil's sole name £15,000
- Phil's police pension: transfer value £100,000
- Annette's teachers' pension: transfer value £50,000

Annette (42) is currently still working part-time as a supply teacher and earns approximately £25,000 gross per annum. Phil (45) earns £40,000 net per annum (after deduction of tax, national insurance contributions and pension).

Annette told me that she has started seeing another man (Chris) and that the relationship was getting quite serious. Chris is the Head Teacher at one of the schools that Annette had done some supply teaching for. I checked and she confirmed that they were not as yet cohabiting so the contents of her Form E remain correct.

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She said that Phil was extremely upset when he found out about her relationship with Chris. She thinks that he is particularly annoyed because she and the children are still in the matrimonial home whilst he is currently living in a bedroom flat and also his new relationship recently ended.

He had telephoned her a couple of nights ago and had been quite abusive. He had said that "if Chris wants you he can have you, if he can afford it, as you've always had expensive tastes". She said that during the telephone call Phil had threatened that she "wouldn't take him for another penny" and that he would make sure that "there was nothing left for you to take" by the time they got to court. Annette is concerned that Phil meant what he said as he has also told the children that "Chris can start putting his hand in his pocket and paying for you and your Mum". The children had obviously been very upset by this remark. Annette confirmed that despite this, Phil was currently still paying her the amount of maintenance they had agreed between themselves for the children. He is also still seeing the children for their usual contact of staying contact on a Saturday night every other weekend.

As regards to the children, Imogen who is now 16 has decided that she definitely wants to go on to University. Annette told me that it was still too soon to say whether Freddie at 13, would do the same.

We agreed that Annette would contact me immediately if she had any further threats from Phil and that we would in any event review matters again ahead of the FDR appointment.

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DOCUMENT 4

(Letter from Howard & Co. Phil Baker's solicitors)

Messrs Kempstons,
Solicitors,
The Manor House,
Bedford,
MK42 7AB

Your Ref: JCM/LR/B1926

10 June 2011

Without Prejudice

Dear Sirs,

Re: Your client: Annette Baker
Our client: Phil Baker

Further to our letter of 31st May enclosing our client's replies to the Applicant's questionnaire we are now in receipt of the valuation report of Messrs Watkins in relation to the former matrimonial home. We can confirm that our client accepts the figure of £340,000.

Our client has instructed us to put forward the following offer in full and final settlement of your client's claims, in advance of the parties' FDR Hearing: -

- 1) that the former matrimonial home, 48 Lincoln Drive, Clayton, Barnardshire, be held on trust on a Meshor order (subject to the usual triggering events) with the parties each receiving a 50% share of the net proceeds of sale.
- 2) that your client receive a pension attachment order in the percentage of 20% of our client's pension scheme with the Barnardshire Police Authority.
- 3) that the joint life assurance policy be surrendered and the proceeds divided equally between the parties.
- 4) that our client pay child maintenance in the sum of £150 per week.
- 5) that both parties retain their own remaining assets.

We look forward to hearing from you when you have had an opportunity of taking your client's instructions.

Yours faithfully,

Howard & Co.

DOCUMENT 5

(Telephone attendance note re: Samuel and Rebekah Cohen)

Date: 16 June 2011

Re: new clients: Samuel and Rebekah Cohen

Time taken: 12 mins

Telephone attendance on Mrs Rebekah Cohen. She and her husband Samuel have concerns about their daughter Deborah's behaviour. Mrs Cohen explained that until recently her daughter and two grandchildren had been living with her and her husband. They had stayed with them for four months following the breakdown of their daughter's marriage. Deborah had been deeply affected by her marriage breakdown and had received counselling and treatment for depression. They had helped her through this and provided a temporary home to her and their two grandchildren Lauren aged 10 and Benjamin aged 13.

With their support Deborah had been able to come off her medication. Two months ago their daughter obtained the money due to her from her financial settlement from the divorce and she was able to afford to purchase a property for herself and the children to live in. The Cohens would see the children at least two or three times a week.

Since Deborah and the children left their home, Mr and Mrs Cohen have received two telephone calls from Lauren's school. On both occasions Deborah had failed to collect Lauren from school so they had to do so. The second time that they attended to collect Lauren, her teacher expressed concerns that she had been sent to school without her P.E. kit on a number of occasions. The Cohens also had to collect Benjamin and one of his friends from football training on two occasions last month when Deborah was supposed to collect them. Benjamin was very embarrassed by his mother's omission.

The Cohens have tried to broach these issues with Deborah but she is extremely defensive to any suggestions that she may be struggling to cope. Their last discussion with her was two weeks ago when she flew into a rage and told them to stop interfering and let her and the children lead their own lives. She has not allowed them to see or speak to Lauren and Benjamin since. Earlier this week Mrs Cohen received a text from Benjamin saying that he and Lauren missed them and wanted to see them.

The Cohens would like urgent advice about their position. They do not want to upset Deborah nor do they want to take the children away from her. They think that the current problems may be due to Deborah discovering that her ex-husband is to remarry. I explained I was on leave from tomorrow but would ask my trainee to see them in my absence

JCM

End of Case Study Materials

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