

INSTITUTE OF LEGAL EXECUTIVES

UNIT 15 – CIVIL LITIGATION*

Time allowed: 3 hours 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 ILEX 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 ILEX qualifications: **LEVEL 6 CERTIFICATE IN LAW, LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE** and the **LEVEL 6 DIPLOMA IN LEGAL PRACTICE**

Question 1

Draycott Furnishings File

Questions 1a and 1b relate to the information on Draycott Furnishings on page 3 of the case study materials.

- (a) Is there any Protocol in place for this action? If so which? Do the parties need to abide by Protocol practice if there is no Protocol in place for a case of this kind?

(5 marks)

- (b) You have now reached the stage when proceedings are to be issued in this case.

List the documents that are needed in order to issue proceedings.

Explain, giving reasons, which court this case would be issued in.

(5 marks)

- (c) Please complete the attached **BACK PAGE** of form N1 (**Document A**) for this claim and attach it to your answer book.

You do not need to work out any interest figures though you should indicate where a figure for interest should appear in the document, referring to it as £xxxx.

Important: Write your candidate number clearly on Document A and attach it securely to your answer booklet.

(5 marks)

- (d) Refer to **Document B** attached with this question paper. If, before proceedings had been issued in this matter, you had received this letter from Selina Curtis' solicitors (**Document B**) what advice would you give to your client company?

(10 marks)

(Total: 25 marks)

Question 2

Cowler and Folex File

Reference: Question relates to **Document 1 and Document 2** of the case study materials.

- (a) Prepare a draft memo for your supervising partner, Mark Jones, that briefly sets out what cause (or causes) of action arises from the facts you have in **Document 1**, the evidence that would be needed to support the claim and any problems you envisage might arise that the client should be made aware of at this stage.

(7 marks)

- (b) Robert Thorns is concerned that legal costs should not escalate unreasonably.

Outline the advice that you would give him in response to this concern.

(6 marks)

- (c) An extract from a report prepared by Delvine Lineen is attached to the case study materials as **Document 2**. Comment on the form of the report and the revisions you would expect would be needed in order that it is compliant with CPR 35.

(7 marks)

- (d) Is Delvine Lineen an appropriate expert witness for this case? Give reasons for your answer.

(5 marks)

(Total: 25 marks)

Question 3

Rachel Burns File

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

- (a) (i) What advice should Mark Jones have given when he saw Mr Burns and Rachel on 3 June 2011 concerning an application to the court in relation to the school trip to Croatia?
- (ii) Set out the procedure for making this application, comment on the nature and purpose of any evidence necessary to support the application.

Also, indicate the clarification Mr Burns seeks in relation to the CFA.

(10 marks)

- (b) What role does Mr Burns have in this action? Considering that Rachel is nearly 18 years old, what procedural steps might soon have to be taken on this file?

(4 marks)

- (c) Briefly set out the heads of damage that Rachel may be seeking in this action.

(6 marks)

- (d) Explain in which court might this action have been issued, and to which track is it likely to have been allocated?

(5 marks)

(Total: 25 marks)

Question 4

Samira Sanchez File

Reference: Question relates to **Document 4** of the case study materials.

- (a) Could Paul Peters use the conviction referred to in order to support his case? If so what steps would Paul Peters need to take given that we are getting close to trial preparations?

(6 marks)

- (b) What is the likely nature of Samira's defence in this action?

Give brief details of the procedural steps which should be taken when filing a defence of this nature.

(6 marks)

Assume that matters have moved on in this case.

- (c) It is now a week before the trial of this action and Samira has come into the office with a sketch plan of the place where the accident happened. This clearly shows that Samira could not have seen Paul Peters just before the accident as her view of him was obscured by a post-box. You consider this to be of value to increase the level of contributory negligence that is alleged against Paul Peters.

How can you secure its admission in evidence? Briefly discuss both law and procedure.

(8 marks)

- (d) At trial Paul succeeds in his claim. His claim was commenced in the county court and allocated to the fast track. Judgment was given for £6,000.

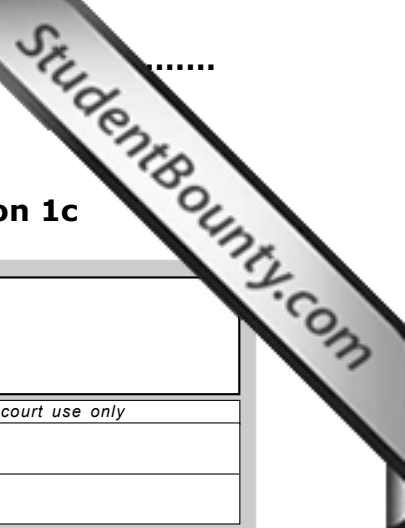
What factors will affect the costs orders that may be made at the conclusion of the trial?

(5 marks)

(Total: 25 marks)

BLANK PAGE

StudentBounty.com



Document A

Relating to the Draycott Furnishings file and Question 1c



Claim Form

In the

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

Claimant

Defendant(s)

Brief details of claim

Value



Note: You are asked to complete ONLY the back page of this N1 form and attach this securely to your answer book.

Defendant's name and address

[Empty box for defendant's name and address]

	£
Amount claimed	
Court fee	
Solicitor's costs	
Total amount	

The court office at

is open between 10 am and 4 pm Monday to Friday. 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.

Document B

Relating to the Draycott Furnishings file and Question 1d

An extract of a letter received from Selina Curtis' solicitors:

Dear Sirs

Selina Curtis and Draycott Furnishings

**CPR 36 OFFER – WITHOUT PREJUDICE SAVE AS TO COSTS
YOUR CLIENT: DRAYCOTT FURNISHINGS LIMITED
OUR CLIENT: MS SELINA CURTIS**

We refer to the above matter generally.

In our opinion, and as we have set out in previous correspondence, your clients' claim has serious deficiencies. These include the issues we have raised concerning the fact that your client is seeking a sum that is higher than the price our client agreed and the furniture supplied does not fit the space our client had specified. However, our client is keen to resolve this matter as quickly and as cost effectively as possible. We are therefore authorised by our client to make your client the following offer to settle under Part 36.

TERMS OF THE OFFER

Our client is willing to settle the whole of your clients' claim on the following terms:

- Our client will pay to your client within 14 days of the acceptance of this offer, the sum of £7,000, including interest in full and final settlement of all claims your client has or may have against our client in this matter.
- The offer is open for acceptance for a period of 21 days

FAILURE TO ACCEPT THIS OFFER

If your client does not accept this offer and proceeds to issue proceedings but fails to do better than it at trial, our client intends to rely on CPR 36.14 and will seek an order that your client pays our client's costs from the expiry date of the relevant period and will also seek interest on those costs.

We look forward to hearing from you and would ask that you kindly acknowledge receipt of this letter.

Yours faithfully

End of Examination Paper

BLANK PAGE

StudentBounty.com

BLANK PAGE

StudentBounty.com

BLANK PAGE

StudentBounty.com