

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 question.**
- 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**

Question 1

The Blu Limited case.

At the meeting you have with Claire Ditton it becomes apparent that no action has been taken by Blu Limited since the first meeting four months ago.

Note: Give an explanation for each of your answers.

- (a) (i) What steps or application would you have expected Medical Limited to have taken in respect of the proceedings they had commenced against your client company?
- (ii) Would your answer be any different if your clients had been served with only the claim form when Claire saw Mark Jones and yourself four months ago and no further documents had been received since?
- (iii) In which court would you have expected the claimant to have issued these proceedings? Which track would you anticipate the court to allocate this case to?

(7 marks)

- (b) Referring back to the first meeting with Claire (four months ago) what advice would you have given Claire if she told you that the documents that had been served on her had been the first communication she had had from Medical Limited about the dispute?

(5 marks)

- (c) Looking ahead, assume that at trial, the claimant, Medical Limited obtains judgment for £28,000 against your client company. Three months before the trial your client made a Part 36 offer to settle the whole of Medical Limited's claim for £32,000. Your client did not withdraw the offer. No other offers were made by either party in the litigation.

- (i) Outline the orders that your clients will seek from the court after this judgment has been handed down.
- (ii) What principles will the court apply in response to your clients' submissions?

(13 marks)

(Total: 25 marks)

Question 2

The Gulfraz Khan case

- (a) Identify the possible defendants and possible causes of action in this action.

(6 marks)

- (b) Advise on the evidence that would need to be obtained to establish liability and assess quantum of damages in this case.

(10 marks)

- (c) Mr Khan sent a covering letter back with his client questionnaire; this included the following passage:

"I am very concerned about how I am going to pay for this case. I have almost no savings and I don't want to risk my house. A friend of mine lost almost half of his damages once the solicitor had taken his slice under a no win no fee arrangement. Also, I have decided that if I do go ahead with the case, I would like to wait until after my wedding in March."

Briefly explain how you would respond to the issues Mr Khan has raised.

(9 marks)

(Total: 25 marks)

Turn over

Question 3

The Watson case

Mark Jones asks you to prepare a note for him dealing with the following evidential points:

- (a) You are informed that a statement from an important witness for the Defendant, who will be out of the country on the day of the trial, has been exchanged without notifying the Claimant's solicitors that the witness will not be attending trial. Discuss the admissibility and weight of such evidence in these circumstances and suggest the action that could be taken by your firm.

(8 marks)

- (b) You are asked to consider whether your client's conviction for careless driving can be used in the civil proceedings against him. You note that no mention of the conviction has been pleaded in the claimant's particulars of claim.

(8 marks)

- (c) Your client has provided you with a sketch map of the accident site showing that Charlotte Pitt was crossing at a point where she would be partially obscured to motorists by a post box. You consider this to be of value in refuting the claim.

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

(9 marks)

(Total: 25 marks)

Question 4

The Pasta Supplies Limited Case

You are instructed on behalf of Pasta Supplies Limited. Your client company has supplied Mr Ratti who trades as 'The Italian Dream Restaurant' with pasta, pasta sauces and other condiments. Mr Ratti fell behind with payments and, because he was such a long-established customer, unpaid invoices had been allowed to build up. It became apparent that Mr Ratti was in financial difficulties and eventually proceedings were issued against him.

A successful application, for summary judgment, was made immediately after Mr Ratti had filed his form of acknowledgment of service and your client has a judgment for the full sum owing - £10,350.00.

- (a) What are the criteria the court would have applied on the application for summary judgment pursuant to CPR Part 24?

What would be the procedure for making such an application?

What are the possible orders that the court could have made?

(10 marks)

- (b) What steps can you take to obtain information regarding Mr Ratti's financial situation?

(5 marks)

- (c) Information is obtained about Mr Ratti's financial position.

- (i) He has £2,000.00 in his sole name in an account with Westshire Bank plc.

What action could you take in respect of this account?

- (ii) Mr Ratti lives with his wife. They live in a semi-detached house in Mrs Ratti's sole name. Mr Ratti states that his wife used money inherited by her to purchase their home and that she also used her inheritance to furnish the property.

Explain whether any action can be taken in respect of the house and its contents.

- (iii) Mr Ratti runs the restaurant from rented premises. He does, however, own all the tables, chairs, crockery etc. as well as some original paintings hanging on the walls.

To what extent might it be possible to pursue these items to satisfy part of the judgment?

(10 marks)

(Total: 25 marks)

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