

CASE STUDY MATERIALS

June 2011
Level 6
CIVIL LITIGATION
Subject Code L6-15

ilex

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INSTITUTE OF LEGAL EXECUTIVES

UNIT 15 – CIVIL LITIGATION*

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.

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* 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**

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ADVANCE INSTRUCTIONS TO STUDENTS

You are a trainee Legal Executive in the firm of Kempstons of The Manor House, Bedford, MK42 7AB. You are in the civil litigation team and your supervising partner is Mark Jones. Your local County Court is situated in Bedford.

You arrive at work on Monday morning and receive a call from Mark. He advises you that he is unable to come to the office and asks that you cover his appointments. He has also asked that you check his post and progress any matters that require attention.

He briefly mentions the following files:

- 1) One of the **Draycott Furnishings** files (file ref: DF/AT/67/11). Kempstons are acting for Draycott Furnishings Limited in a number of matters. This file relates to an unpaid invoice for furniture supplied to Selina Curtis of The Mount, Legend Lane, Northampton.

The invoice is dated 9th March 2011 and the sum due is payable from (and including) that date. The outstanding sum is £10,000.

A letter before claim had been written and sent 4 weeks ago.

- 2) The **Cowler and Folex** file (file ref: CF/AT/69/11). Kempstons act for Cowler and Folex Limited. You have, as **Document 1**, attached with these Case Study Materials, a draft initial witness statement taken from a file note Mark took during a meeting with the managing director of the client company. You also have **Document 2**, an extract of a report prepared by Delvine Lineen.
- 3) The **Rachel Burns** file (file ref: RB/AT/32/11). Mark wanted you to speak with Mr Burns, Rachel's father, after you have had a chance to look at the file. You have, as **Document 3**, attached with these Case Study Materials, a telephone attendance note taken last Friday afternoon by one of the paralegals in the Dispute Resolution Department.
- 4) The **Samira Sanchez** file (file ref: SS/AT/35/11). Kempstons act for Samira in connection with a claim that has been made against her by Paul Peters arising from a road traffic accident in which Paul Peters was injured. You have, as **Document 4**, attached with these Case Study Materials, an extract of an e-mail from Mark. There are some evidential issues arising in this case and Mark asks you to look through the file.

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DOCUMENT 1

Relating to the Cowler and Folex file

I, **Robert Thorns**, of Cowler and Folex Limited, Flag House, 123 Lansdowne Road, Bedford will say:

1. I am the managing director of Cowler and Folex Limited. The company designs and manufactures flags, pendants, bunting and banners which it supplies to customers in the United Kingdom and around the world. One of my responsibilities in the company is to oversee the purchase of fabrics and other materials used in the production process, which involves the traditional method of stitching fabrics together to produce a design, albeit these days by machine.
2. In late November 2010, in the run up to New Year celebrations, we experienced a heavier than expected demand for our range of products bearing the Golden Champagne bottle logo (a golden fizzing champagne bottle against a background of purple). To fulfil orders in time for the New Year celebrations, I was forced to look beyond our usual suppliers of fabrics and threads. One of my contacts put me in touch with a small business based in Stoke on Trent, Staffordshire which specialised in the printing, dyeing and sale of quality cottons and silks. This, I discovered, was a business partnership owned and run by Ian and Jane Geeson. They trade as IJG Textiles.
3. I contacted Jane Geeson by telephone in early December 2010. I explained my company's requirements and, having received a positive response, asked her to send several samples of their material and a price list. The samples and list arrived by courier on Friday 3rd December. I arranged for our head of quality control, Francis Pitts, to assess which would be the most suitable. He selected IJG's samples called 'Henry VIII Purple' and 'Africa Gold'.
4. I telephoned Jane again on 5th December to place an order for 5,000 metres of the purple fabric and 2,000 metres of the gold fabric at a special discounted price of £15 per metre. Having never dealt with IJG Textiles before, I made it clear to Jane that the fabrics supplied must correspond precisely with the sample. I arranged for an electronic transfer of 50% of the purchase price the next day. The balance of £52,500 was due on delivery.
5. When the order arrived on 8th December, I arranged for the electronic transfer of the balance to be paid to IJG Textiles. Francis Pitts came to see me five days later after the 'Making-Up' department had started work on the production of more of the Champagne Design banners. The Manager of the Making-Up department had reported that the purple fabric was not smooth to the touch and the gold material resembled more of a pale yellow than a burnished gold.
6. On receiving this news I immediately sent an e-mail to IJG Textiles rejecting the delivery on the basis that it did not conform with the samples. I demanded a full refund. IJG Textiles' response was to state that they were carrying out their own investigation and would respond in due course. To date I have heard nothing further, the fabric is still in our warehouse and I have received no refund.

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7. I was fortunate in being able to find, at very short notice, an alternative supplier in Blackburn, Lancashire. I arranged to buy similar quantities of each fabric but from the Blackburn supplier. These fabrics were more expensive, at £20 per metre. Cowler and Folex Limited now wishes to recover the money paid to IJG Textiles and the additional sum we had to pay to the Blackburn supplier for replacement fabrics.

Document 2

Relating to the Cowler and Folex file

An extract of a report prepared by Delvine Lineen

Ms Delvine Lineen
12 Weavers Court
Milton Keynes
Buckinghamshire
MK12 7GH

Report of Ms Delvine Lineen
14th June 2011

To whom it may concern

Documentation available

1. Letter of instruction dated 7th May 2011
2. Statements of Case in the proceedings

I am a specialist in fabrics. I have worked in this area for over 20 years. My particular areas of expertise relate to the properties of natural fibres. I am currently a research assistant at Milton Keynes College of Art and Design.

In accordance with your instructions I have inspected and performed analysis of the samples and fabric supplied to your clients by IJG Textiles on 3rd and 8th December 2010.

My conclusions are as follows;

1. The purple coloured fabric is a Grade C cotton whereas the sample was Grade B cotton and silk mix.
2. The yellow, or gold coloured fabric supplied was identical fabric to the sample but the colour was significantly paler. This is likely to have occurred as a result of a more dilute fixing agent having been added to the dye in the fabric supplied to the order.

Delvine Lineen

Relating to the Rachel Burns file**Telephone Message**

Date: 10 June 2011
For: Mark Jones
Taken by: Billie Clintle
Re: The Rachel Burns File
Time and units: Call taken at 9.15. 2 units.

Call from Mr Burns who explained that he and Rachel had seen Mark Jones on 3 June 2011.

Mr Burns asked whether there had been any progress.

I looked at the file during the call and noted that the file relates to a claim for the personal injury and loss Rachel had sustained in a road traffic accident last year. She had been knocked down whilst crossing the A309 on a pedestrian crossing.

I also saw on the file Mark Jones' last attendance note taken last week. In that attendance note Mark had taken details down of the problems Rachel was having with her injured leg. He noted that Rachel was feeling very frustrated and depressed at the slow pace of her recovery. The note also referred to a school trip to Croatia that was planned for all the school leavers in August. Mr Burns thought that going on the trip to Croatia would be very good for Rachel's morale and that going would also give her a boost after completing all her 'A' Level examinations. As he had recently been made redundant he didn't think that he could justify, or afford, the cost of the trip for Rachel. He asked if anything could be done about this in relation to the claim. I saw the advice that Mark Jones had given in response to this.

I also noted that the case was being funded by way of a Conditional Fee Arrangement (CFA). I didn't have time to read the CFA but Mr Burns mentioned that he had been expecting a letter from Mr Jones concerning the CFA.

I said that someone would contact Mr Burns about this.

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Document 4

Relating to the Samira Sanchez file

An extract of an e-mail you have received from your supervising partner,
Mark Jones.

Hello

One of the matters I would like you to look at for me is on the Samira Sanchez file (file ref. SS/AT/35/11).

As you will see from a review of this file we act for Samira who is the defendant in a claim being made against her by Paul Peters. You will see that Samira is defending the claim alleging that she lost control of the car because the steering failed and she could not turn the car to avoid colliding with Paul. You will see that Samira had just picked up the car from the garage who had recalled the car for checks on the steering system. She was only a half a mile from the garage when the accident happened!

Just before I left the office last Friday I had a telephone call from Paul Peters' Legal Representative who told me that he had just received notification that Samira had been convicted of speeding and been fined £60 with 3 penalty points. He told me that the offence happened on the day that Paul Peters was injured.

Please review the file for me.

Regards

Mark

End of Case Study Materials

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