

CASE STUDY MATERIALS

January 2012
Level 6
PRACTICE OF FAMILY LAW
Subject Code L6-20

ilex

StudentBounty.com

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**

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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 the matrimonial partner Timothy Williams, Legal Executive. 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 Timothy Williams
- Document 2** Copy of an e-mail sent to Leanne Stevens
- Document 3** Copy Divorce Petition of Leanne Stevens
- Document 4** Attendance note re Fiona Palmer
- Document 5** Attendance note re Khalid Hussain

DOCUMENT 1

Memorandum

To: Trainee Legal Executive

From: Timothy Williams

Date: Today's date

Re: Matters to be attended to in my absence

As we discussed, I am going to be absent from the office for the next three to four weeks whilst I have an operation on my right knee. I would be grateful if you could please attend to the following cases during my absence:

1. Leanne Stevens

I am assisting Mrs Stevens with her divorce. I attach a copy of the last e-mail which I sent to her, confirming the current position, for your information (**Document 2** attached). I also attach a copy of the divorce petition which I have prepared and filed at court (**Document 3** attached). Could you please progress the case during my absence.

2. Fiona Palmer

I have conducted Fiona's divorce proceedings and am currently trying to resolve the ancillary finances. I attach an attendance note of my meeting with her last week (**Document 4** attached). The Financial Dispute Resolution Hearing relating to her application is listed in three weeks time. I have booked Counsel to conduct this but would be grateful if you would please attend with the client and familiarise yourself with her file.

3. Khalid Hussain

Mr Hussain is a new client. I saw him for a first appointment early yesterday and attach a copy of the attendance note of this meeting (**Document 5** attached). Could you please deal with any queries or issues which arise in my absence?

Many thanks,

Timothy

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DOCUMENT 2

(E-mail from Timothy Williams to Leanne Stevens)

Date: (dated yesterday)

Dear Mrs Stevens,

Thank-you for your e-mail of earlier today requesting an update on your divorce. I can confirm that the Bedford County Court have issued your divorce proceedings. They inform me that they sent a copy of the divorce paperwork to your husband at his home address yesterday.

As you know I will unfortunately be absent from the office for the next few weeks but I have asked my trainee Legal Executive to deal with your matter during this time.

Kind regards,

Timothy

DOCUMENT 3**Divorce/dissolution/
(judicial) separation petition**

To be completed by the Court	
Name of court	
Case No.	
Date received by the court	
Date issued	
Time issued	

Notes to Petitioners

- This form should be used if you are making an application to the court for divorce/dissolution to end your marriage or civil partnership or (judicial) separation from your spouse or civil partner.
- Before completing this form, please read the supporting notes for guidance on completing the form.
- Please answer all questions. If you are unsure of the answer to any question, or you do not think that it applies to you, please indicate this on the form.
- If there is not enough room on the form, you may continue on a separate sheet. Please put your name, the Respondent's (your spouse/civil partner) name, and the number of the Part the information relates to, at the top of your continuation sheet.
- If completing this form by hand, please use **black ink and BLOCK CAPITAL LETTERS** and tick the boxes that apply.

See the supporting notes for guidance

I, (please state your full name)

apply for a divorce

dissolution

(judicial) separation

in respect of my marriage

civil partnership

and give the following details in support of my application.

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Part 1 About you (the Petitioner) and the Respondent (your spouse or partner)

See the supporting notes for guidance

Petitioner

My current name is

First name(s) (in full)

LEANNE BELINDA

Last name

STEVENS

My address is (including postcode)

17 NEW ROAD
CLAYTON
BARNARDSHIRE

Postcode B H 1 0 6 K J

My date of birth is

2 5 / 0 9 / 1 9 8 3

My occupation is

SHOP ASSISTANT

I am

male female

Respondent

The Respondent's current name is

First name(s) (in full)

NICHOLAS EDWARD

Last name

STEVENS

The Respondent's address is (including postcode)

32 CARTER CRESCENT
CLAYTON
BARNARDSHIRE

Postcode B H 1 0 6 L T

The Respondent's date of birth is

0 1 / 0 3 / 1 9 8 2

The Respondent's occupation is

MACHINE OPERATOR

The Respondent is

male female

Part 2 Details of marriage or civil partnership

See the supporting notes for guidance

On the 21st day of March [~~XX~~][20 05]

(insert your name exactly as it appears on your marriage/civil partnership certificate)

LEANNE BELINDA STEVENS

married formed a civil partnership with

(insert the name of the Respondent exactly as it appears on your marriage/civil partnership certificate)

NICHOLAS EDWARD STEVENS

at

(insert the place where the marriage/civil partnership was formed, exactly as it appears on your marriage/civil partnership certificate)

ST. CUTHBERT'S CHURCH IN THE PARISH OF CLAYTON IN THE COUNTY OF BARNARDSHIRE

A certified copy of your marriage/civil partnership certificate must be sent to the court with this

Part 3 Jurisdiction

See the supporting notes for guidance

The Respondent and I last lived together as husband and wife civil partners
at

Address
17 NEW ROAD
CLAYTON
BARNARDSHIRE
BH10 6KJ

The court has jurisdiction to hear this case under

- Article 3(1) of the Council Regulation (EC) No 2201/2003 of 27 November 2003
or
 the Civil Partnership (Jurisdiction and Recognition of Judgments) Regulations 2005
on the following grounds

- The Petitioner and Respondent are both habitually resident in England and Wales
 Other (please state any other connection(s) on which you wish to rely)

or

- The court has jurisdiction other than under the Council Regulation on the basis that no court of a Contracting State has jurisdiction under the Council Regulation and the Petitioner Respondent is domiciled in England and Wales on the date when this application is issued

or

- The court has jurisdiction other than under the Civil Partnership (Jurisdiction and Recognition of Judgments) Regulations on the basis that no court has, or is recognised as having jurisdiction as set out in the Regulations, and

either:

- the Petitioner and/or the Respondent is domiciled in England or Wales

or

- the Petitioner and Respondent registered as civil partners of each other in England or Wales and it would be in the interests of justice for the court to assume jurisdiction in this case.

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Part 4 Other proceedings or arrangements

See the supporting notes for guidance

- There are and/or have been
- proceedings in any court in England and Wales or elsewhere with reference to the
 - marriage
 - civil partnership
 - or to any child of the family
 - or between the Petitioner and Respondent with reference to any property of either or both of them
 (please enter details below)

or

- no other proceedings in any court in England and Wales or elsewhere.

- This is an application based on five years' separation and
- agreement has been made or is proposed to be made between the parties for the support of the Petitioner (and any child of the family)
- (please enter details below)

or

- no agreement has been made or is proposed to be made.

Part 5 The fact(s)

See the supporting notes for guidance

I apply for a

- divorce on the ground that the marriage has broken down irretrievably, or
- dissolution on the ground that the civil partnership has broken down irretrievably, or
- (judicial) separation

and

I rely on the following fact(s) in support of my application:

- The Respondent has committed adultery and the Petitioner finds it intolerable to live with the Respondent (this fact is not applicable in relation to a civil partnership)
- The Respondent has behaved in such a way that the Petitioner cannot reasonably be expected to live with the Respondent
- The Respondent has deserted the Petitioner for a continuous period of at least two years immediately preceding the presentation of this petition
- The parties to the marriage/civil partnership have lived apart for a continuous period of at least two years immediately preceding the presentation of the petition and the Respondent consents to a decree/order being granted
- The parties to the marriage/civil partnership have lived apart for a continuous period of at least five years immediately preceding the presentation of the petition

Part 6 Statement of case

See the supporting notes for guidance

(in all cases, please state briefly any relevant details about the fact(s) on which you rely)

1. The Petitioner first felt that there were problems with the marriage in late 2007 after the birth of the parties' first child. The Respondent became increasingly distant from the Petitioner and was unwilling to assist the Petitioner in looking after the children. The Petitioner found this very upsetting.
2. Despite these problems, the parties agreed that they should have a second child and in September 2009 the parties' son Jack was born. Although the Respondent did make an effort to engage with Jack and help the Petitioner this effort was short-lived and the Petitioner once again soon found herself solely responsible for looking after the children and running the household.
3. In January 2010 the Respondent started a number of home-improvement projects at the parties' home. Unfortunately he lost interest before the projects were completed so that at various times the Petitioner was left without the use of the kitchen and bathroom facilities. This caused the Petitioner considerable inconvenience and distress. The Petitioner eventually had to employ and pay contractors to complete the work.
4. In October 2011 the Petitioner discovered that the Respondent was conducting a number of flirtatious relationships by text and on his facebook account. When the Petitioner confronted the Respondent he admitted to the flirtations and told the Petitioner that he no longer loved her.
5. On 20th November 2011 the Respondent moved out of the matrimonial home and since then the parties have lived separate and apart. The Petitioner is now firmly of the opinion that the marriage has irretrievably broken down and petitions for its dissolution on that basis.

Part 7 Details of the children

See the supporting notes for guidance

Children of the family

Full names of the children of the family	Gender		Date of birth (or state if over 18)	Over 16 but under 18 and in education, training or working full time	(a) Child of both parties	(b) Other child of the family
	male	female				
CHLOE VIVIEN STEVENS	<input type="checkbox"/>	<input checked="" type="checkbox"/>	0 5 / 1 0 / 2 0 0 7	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
JACK GEORGE STEVENS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	3 0 / 0 9 / 2 0 0 9	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	D D / M M / Y Y Y Y	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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	<input type="checkbox"/>	<input type="checkbox"/>	D D / M M / Y Y Y Y	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Statement of arrangements for children

See the supporting notes for guidance

- I attach a completed statement of arrangements in respect of those children of the family who are either aged under 16, or aged under 18 and at school, college, or in training for a trade, profession or vocation
- or
- No statement of arrangements is attached, because there are no children of the family, or no children

Children of either party who are not children of the family

Full names of the children of either party who are not children of the family	Gender		Date of birth (or state if over 18)	Born to Petitioner	Born to Respondent																				
	male	female																							
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D	D	/	M	M	/	Y	Y	Y	Y																

Part 8 Special assistance or facilities if you attend court

See the supporting notes for guidance

If you are required to attend court during these proceedings will you need any special assistance or facilities?

Yes (please supply details below) No

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Part 9 Service details

See the supporting notes for guidance

- I am not represented by a solicitor in these proceedings
- I am not represented by a solicitor in these proceedings but am receiving advice from a solicitor
- I am represented by a solicitor in these proceedings and all documents for my attention should be sent to my solicitor whose details are as follows:

Box 1 Solicitor's details

Name of solicitor	TIMOTHY WILLIAMS		
Name of firm	KEMPSTONS LLP		
Address to which all documents should be sent for service THE MANOR HOUSE BEDFORD Postcode	Telephone no.	(01234) 622964	
	Fax no.	(01234) 622965	
	DX no.	BEDFORD 3721	
	Your ref.		
	M	K	4 2
		7	A B
E-mail			

Box 2 Petitioner's address for service

Address (including postcode) AS ABOVE Postcode							
--	--	--	--	--	--	--	--

Box 3 Respondent's address for service

Address (including postcode) 32 CARTER CRESCENT CLAYTON BARNARDSHIRE Postcode	B	H	1	0		6	L	T
---	---	---	---	---	--	---	---	---

Box 4 Co-Respondent's details, if any

- There is no Co-Respondent
- There is a Co-Respondent whose details are as follows:

First Name	
Last Name	
Address (including postcode)	

Part 10

See the supporting notes for guidance

Prayer

The Petitioner therefore prays

(1) The application

That the marriage civil partnership be dissolved

or

That the Petitioner be (judicially) separated from the Respondent.

(2) Costs (if you wish to claim costs from the Respondent or Co-Respondent)

That the Respondent Co-Respondent shall be ordered to pay the costs of this application

(3) Financial Order (if you wish to make an application for a Financial Order)

(a) That the Petitioner may be granted the following Financial Order(s):

an order for maintenance pending suit

periodical payments order

secured provision order

lump sum order

property adjustment order

order under section 24B, 25B or 25C of the Act of 1973 (Pension Sharing/Attachment Order)

(b) **For the children**

a periodical payments order

a secured provision order

a lump sum order

a property adjustment order

Signed

Dated / /

DOCUMENT 4

(Attendance note re: Fiona Palmer)

Client: Fiona Palmer

Date: (dated last Wednesday)

Fee earner: Timothy Williams

File ref: TW/LR/P9524

Time taken: 1 hour

Attended upon Mrs Palmer to discuss her application for financial orders following her divorce. She confirmed that she had received the copy of her husband's Form E which I had forwarded to her with my last letter. She has checked through this and everything seems to be in order.

I noted that her adultery petition had reached the stage of the pronouncement of Decree Nisi last month. I explained that if she failed to apply for the Decree Absolute within six weeks of the Decree Nisi pronouncement her husband, Douglas, could apply but that he would need to wait a further three months after the six weeks had elapsed.

In terms of the parties' finances the summary of the assets from their 15 year marriage is as follows:-

Former Matrimonial Home: 16 Launceston Avenue, Clayton, Barnardshire.
This is a 4 bedroom detached house which has been valued by a jointly instructed valuer at £395,000
Less a mortgage of £125,500
Net Equity of £269,500

There are additionally:-

Joint life assurance policies with total surrender values of £45,000
Joint savings of £40,000
C.E.T.V. of Fiona's pension £32,000
C.E.T.V. of Douglas' pension £55,000

The parties' two children Oliver (15) and Ruby (11) both remain at the former matrimonial home with Mrs Palmer. Oliver does appear to want to go on to University. Ruby is quite academic but it is perhaps a little too early to say whether she will wish to do the same. Douglas (47) remains in full-time employment as an architect and last year earned £40,000 net. Mrs Palmer (46) is working 3 days a week as an accountant and last year earned £22,000 net.

I explained to Mrs Palmer that in her Form E we had requested that the former matrimonial home should be transferred to her outright and had asked that she should retain her pension in return for Douglas retaining his own pension, the life assurance policies and savings. We had suggested that the case was a suitable one for a clean break. Mrs Palmer is still awaiting a child support calculation from C-MEC.

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Douglas does want the children to have a stable home environment but in Form E he suggests that he is not happy with the proposed transfer of the matrimonial home. He sees the children for regular staying contact every other weekend. He is currently still living in a rented 3 bedroom semi-detached property but confirms in his Form E that he wants to buy somewhere as soon as the finances are resolved. He believes that to buy a house similar to the one he is renting would cost about £250,000.

I confirmed to Mrs Palmer the date for the F.D.R and explained how this appointment worked. Noted that I had booked Counsel to conduct the appointment and that my trainee would also be in attendance. Confirmed that I needed to prepare some further paperwork in advance of the appointment and that I would be in touch with Mrs Palmer about this.

DOCUMENT 5

(Attendance note re: Khalid Hussain)

Client: Khalid Hussain

Date: (Yesterday's date)

Fee earner: Timothy Williams

File ref: TW/LR/H5371

Time taken: 1 hour

Attendance upon Khalid Hussain who is a new client. Obtained the proof of identity documentation and carried out the usual conflict checks. There are no issues.

His details are as follows:-

Full Name: Khalid Hussain

D.O.B.: 04/05/1980

Address: 15 Windmill Close, Clayton, Barnardshire BH10 9DL

Phone number: 077175 27587 (mobile)

Occupation: Logistics Manager

Mr Hussain was divorced from his ex-wife Melissa Hussain (née Unsworth) (d.o.b. 01/12/75) two years ago. The divorce proceedings were brought by his ex-wife on the basis of his unreasonable behaviour. The couple resolved their finances by way of a consent order. No formal orders were obtained in relation to the parties' children Ayesha (d.o.b. 02/08/01) and Imran (d.o.b.17/03/00).

Mr and Mrs Hussain were married in August 1998. They are both U.K. citizens. The former matrimonial home is 6 Redcar Drive, Clayton, Barnardshire BH9 7TE. This was their home throughout the marriage. Mr Hussain moved out to his current address after the divorce, leaving his ex-wife and the children there.

Since the divorce Mr Hussain has always exercised regular contact with his children including staying contact every other weekend and for parts of the school holidays. The relationship between him and his ex-wife has always been amicable until about two months ago when his wife discovered that he was in a new relationship. Since then his contact with the children has become increasingly sporadic.

Mr Hussain believes that his wife is finding it hard to accept his new relationship. He thinks that because the relationship between them was so amicable she believed that they might at some point reconcile. His new relationship has obviously proved that he does not feel the same. Over the last six weeks when he has called to collect the children he has experienced a number of problems.

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On one occasion Melissa let him take Ayeshah but not Imran, saying that she wanted to stay with her. However Mr Hussain later received a text from Imran who said that his mum had "gone mental" at the thought of letting them be with her so he had stayed behind to let Ayeshah go.

After this visit Mr Hussain has tried to exercise contact on two further occasions but each time he has been turned away. The last time, which was last week, Melissa claimed that both children were ill. However Mr Hussain could see the children waving from an upstairs window as he left and he later received a text from Ayeshah saying that she really missed him.

Mr Hussain tried to telephone his wife to discuss the matter but she refused to agree to any contact. She also refused his suggestion that they should try to resolve the matter using mediation. She told him that she was worried that if she let him see the children he would "kidnap them" and she would never see them again.

Mr Hussain was clearly very upset by this. He admitted that he had subsequently repeatedly telephoned his wife on her home number, her mobile number and her work number. He had also waited for her outside her place of work to try to talk to her about it.

When he telephoned her yesterday, she said that if he tried to contact her again she would call the police and speak to her solicitor as she was sick of him harassing her and it wasn't her fault the children didn't want to see him.

I suggested to Mr Hussain that he refrained from contacting his wife direct in case she acted on her threat.

I confirmed that I would pass his file on to my trainee to deal with in my absence and that we would perhaps start by sending a letter to his wife with some contact proposals. I handed him a copy of the Parenting Plan guide for separating parents to provide him with some background information.

End of Case Study Materials

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