

CASE STUDY MATERIALS

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Level 6
Criminal Litigation
Subject Code L6-18

ilex

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INSTITUTE OF LEGAL EXECUTIVES

UNIT 18 – CRIMINAL 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.

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 PRACTICE**

ADVANCE INSTRUCTIONS TO STUDENTS

You work for Kempstons, a leading local Criminal Law practice with a Legal Services Commission 2010 Standard Crime Contract. You have a very busy work load at the moment. The following is a summary of some of the cases in which you are involved:

Document 1: Statement from Maurice Jones

Document 2: Summary of prosecution statements

Document 3: Summary of McCann's statement

CASE 1

Kempstons acts for Maurice Jones, aged 46. Jones is an Independent Financial Adviser and is of good character. A considerable amount of client funds has disappeared from the client account of the firm in which he is a partner. The police have indicated that they wish to interview Jones as a suspect in relation to this. He has made a preliminary statement (**Document One**).

CASE 2

Kempstons also represent Aftab Ali, who has been arrested on suspicion of burglary at a jeweller's shop. Jewellery valued at £25,000 was stolen, and has not been recovered. Two other offenders are still at large. You understand that two members of the shop staff and two passers by claim to be able to identify the offender, that there is CCTV coverage of the incident, and that the offender dropped a glove at the scene. Ali has several convictions for offences of dishonesty, although none as serious as the current matter. He also has family connections in Bangladesh. He has never previously failed to surrender to custody when released on bail. He is currently on bail in relation to an unrelated charge of possession of a Class B drug with intent to supply. He is the tenant of a house where he resides with his partner and her child. He works part-time as a deliveryman for a takeaway food shop.

CASE 3

Kempstons also represent Darren McCann, aged 21, who has been charged with assault occasioning actual bodily harm on Aaron Gibbs, aged 15. McCann is shortly due to make his first appearance before Bedford Magistrates Court. Advance disclosure has been given and is summarised in (**Document Two**). McCann's own statement is summarised as (**Document Three**)

DOCUMENT 1

I am a partner in a firm of financial advisers, Eagle Financial, of The Old Forge, Marston Moretaine, Bedford. There are two other partners, my father-in-law, Harold Francis, who is semi-retired, and my brother-in-law, Tom Francis. We do not normally hold clients' money for long periods, but we do hold quite large amounts at any one time as money is always being invested for clients and investments are then realised. The firm's office manager, Amy Brookes, normally deals with the administration of the client account, but all cheques and other payments must be authorised by a partner.

We recently discovered that there was a shortfall of some £98,000.00 on client account. Our accountants investigated this with the bank, and it became clear that a number of bank transfers had been effected which did not relate in any way to actual client transactions. Most were to an account in the name of Wyvern Security Deposit Co, which I am told was set up by Miss Brookes. In fact, the actual vouchers which were produced originally indicated quite different payments to well-known banks and insurance companies. As it happened, all the vouchers were signed off by me, not by Tom Francis.

I had no knowledge that there was anything untoward until the accountants did a routine check of the accounts and found that they could not reconcile the amounts paid to Wyvern with any legitimate client transactions. Miss Brookes was asked to explain, and her explanation was unconvincing. We suspended her on full pay and called in the police. I understand they have interviewed Miss Brookes and charged her with theft and false accounting.

I had nothing to do with any wrongdoing. I am, however, in an awkward situation. I think one reason why Miss Brookes came to me with all the falsified vouchers was that she was taking advantage of our sexual relationship. I had been having an affair with her for about six months. This ended a few weeks before her misconduct came to light. I ended the affair, and I know Miss Brookes was extremely upset and resentful about this. It is particularly embarrassing for me, as my wife's father and brother are my business partners. I don't want the affair to become public knowledge if possible.

Turn over

DOCUMENT 2

NOTE: You may assume that all formal matters, such as signatures statements, are in order.

AARON GIBBS: On Sunday afternoon I was in town with a couple of mates. We were on Lister Street about 4.30pm. I saw Owen McCann, who I used to be at school with. I know he is an Arsenal fan. I support Manchester United, and the previous day they had beaten Arsenal 8-2. I went over to Owen and said 'Still supporting those idiots then?' It was just banter. Owen took it amiss, and squared up to me. I thought he was going to have a go at me. I didn't back down, but I said 'Don't act the big man, I can take you any day'. At that point a bloke I didn't know came up and punched me in the face. I fell over, and someone then kicked me in the ribs about three times. I have sustained a broken nose and a cracked rib.

CRAIG FOWKES: I was with Aaron Gibbs on Sunday. At 4.30pm I went across the road to get a drink from a shop. When I came out of the shop, I saw Aaron arguing with another lad. Then a man hit Aaron and he fell over.

PC 421 LOMAX: I was on patrol on the city centre at 4.30pm on Sunday. I turned the corner from Middle Street into Lister Street and saw a man I now know to be Darren McCann punch a youth I now know to be Aaron Gibbs in the face. Gibbs fell to the floor, appearing to fall against a waste bin as he did so. My view was then briefly obscured by passers by. I went to the scene. I arrested McCann for assault and cautioned him. I then called for back-up. On arrest McCann said 'He was picking on our Owen.' I conveyed McCann to Bedford police station. His detention for questioning was authorised by a custody sergeant. At 6.30 pm that day I interviewed McCann under caution. He was offered and declined legal advice both on arrival at the police station and before the interview. I could see that he had grazes on the knuckles of his right hand, which appeared to be of very recent origin. This was the fist I saw him punch Gibbs with. He made no comment in interview, in particular when asked to account for the grazes on his hand.

Additional material: Custody record confirming authorisation of detention, offer of legal advice – declined, offer of a phone call to contact friend/relative – declined. No indication of illness, vulnerability or under influence of drink or drugs. Antecedents: previous convictions in 2009 and 2011 for ABH. 2009 conviction relates to an attack on his girlfriend and 2011 one to a fight in the city centre outside a public house. Medical report confirms Gibbs' injuries.

DOCUMENT 3

Darren McCann will say – On Sunday I was shopping in the town centre with my brothers Owen, who is 14 and has learning disabilities, and Benny, who is six. At about 4.30pm we were in Lister Street. I had just taken Benny to the lavatory. We left Owen looking in the windows of BBJ Sports. When we got back, I saw another youth confronting Owen. He seemed to be shouting at him and waving his fists. Owen looked frightened. As I approached, the other youth squared up to Owen. I thought he was going to hit Owen, so I hit him, once, in the face. He seemed to stumble and fell to the ground, falling against a waste bin as he did so. Almost at once a policeman grabbed me by the arm and pushed me away. He then said he was arresting me for assault. I tried to explain what had happened, but he didn't seem interested. I was taken to the police station. I was told by the custody sergeant that I could call someone, and could have legal advice, but I decided not to bother. I was quite annoyed, because nobody seemed to be interested in what had really happened. Then when I was interviewed, the coppers seemed totally convinced I was guilty. I thought they wouldn't take any notice of what I said, so I said nothing.

However, since all I was doing was protecting my brother from bullying, I intend to plead not guilty.

I am single and live at home with my parents. I am currently unemployed and receive income based jobseeker's allowance.

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