



## THE CHARTERED 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 CILEx 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 CILEx 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

Reference: Question relates to the **Advance Instructions to Student Document 1** of the case study materials.

- (a) Your client is asking you to "to seek a resolution as soon as possible".

State the factors you should consider in relation to this request and the advice you should give to your client.

**(8 marks)**

- (b) Your client instructs you to write a Letter Before Claim to Midlands Motoring School (MMS) in this matter.

State the aim of this letter and the matters that this letter should deal with.

**(Note:** You are not being asked to draft the letter).

**(6 marks)**

- (c) If no resolution to this matter is achieved during protocol and proceedings have been commenced, what early interim application (or applications) might you advise your client to make?

In respect of any application(s) identified, state:

- The nature of the application (or applications) you say could be made;
- The criteria that would have to be met in order to be successful; and
- The earliest date when it (or they) could be made.

You must give reasons for your answers.

**(10 marks)**

**(Total: 24 marks)**

## Question 2

Reference: Question relates to **the Advance Instructions to Students Document 2** of the case study materials and **Document A** attached with the Question paper.

Matters have progressed on this file and some correspondence has been entered into between Kempstons and Hard Wired Limited's (HWL) solicitors who are Messrs Iller, Harper and Gould. Your client seeks advice concerning the losses Computers Inc Ltd (CIL) has incurred as a result of the supply of poor quality wiring from (HWL). The loss is estimated at £65,000.

No agreement has been reached that satisfied your client's demands for a payment towards these losses.

Accordingly, a Letter before Claim has been written to Messrs Iller, Harper and Gould. No reply has been received to that letter and the time for a payment or response passed two days ago.

Denise Hurling instructs you that she feels the company has been patient enough and wish to commence proceedings against HWL for recovery.

- (a) Complete the partially drafted Particulars of Claim, **in your answer booklet**, (**Document A** at the end of this Question Paper).

**DO NOT detach Document A from the question paper. Your answer should continue in your answer booklet from the point at which this document ends.**

**Note:**

If you consider that a Schedule of Loss would be attached to your draft Particulars of Claim you are **NOT** expected to draft it.

You are **not** expected to calculate any interest claimed in your draft Particulars of Claim. Any reference to interest can be set out as £xxxx.

**(14 marks)**

You have issued and are now preparing to serve the proceedings. You are intending to serve Messrs Iller, Harper and Gould.

- (b) State the documents that would be served and any issues that may arise by your service on Messrs Iller, Harper and Gould.

**(8 marks)**

Proceedings have now progressed to a final hearing and your client's claim has been successful.

- (c) State the rules under which costs will be dealt with and the assessment method that is likely to apply in this case.

**(5 marks)**

**(Total: 27 marks)**

### Question 3

Reference: Question relates to **the Advance Instructions to Students Documents 3a and 3b** of the case study materials.

- (a) From the information you have, state which court and which track this action is most likely to be progressed in.

Give reasons for your answer.

**(5 marks)**

The Allocation Questionnaires filed by both the claimant and the defendant in this action indicate that both parties seek to adduce expert evidence. The claimant is seeking permission of the court to adduce expert evidence in the three fields of expertise noted in **Document 3a** (in your case study materials). The defendant seeks an order that expert evidence be by one Single Joint Expert.

- (b) From the information provided, state the direction order that the court is most likely to make concerning the use of expert evidence.

Give reasons for your answer.

**(8 marks)**

Matters have progressed in this action and the parties have now exchanged their witness statements.

On exchange of witness statements you have received three witness statements from the defendant's lawyers being from James, Harriet and Claude noted in **Document 3b** (in your case study materials). You are told that only James will be attending the trial but the evidence of Harriet and Claude will also be adduced by the defendant and relied on in his case.

The two witnesses, Harriet and Claude, are not being called to give evidence at the trial.

- (c) State the procedure that allows the defendants to rely on the evidence of a witness who will not be attending and what effect adducing the evidence in this way will have on it.

**(7 marks)**

- (d) State action that you could take to reduce the impact of the evidence that Harriet and Claude give.

**(5 marks)**

**(Total: 25 marks)**

**Question 4**

Reference: Question relates to **the Advance Instructions to Students Document 4a and 4b** of the case study materials.

After receipt of your client's Formal Response to Graphics Software Limited's Letter before Claim, Graphics Software Limited had commenced proceedings against your client. You lodged the Acknowledgment of Service indicating your client's intention to defend the action.

- (a) State the period of time within which your client may file the Acknowledgment of Service and the effect that the filing of it will have.

**(5 marks)**

Assume this matter has progressed and the parties have agreed terms of settlement. These terms have been embodied in a Consent Order and include the agreement that your clients make a payment to Graphics Software Limited of £8,000 together with a provision for additional service works (this includes training for your client's employees) to be provided by Graphics Software Limited over the next few weeks in full settlement of the sums outstanding under the contract.

Your client has paid the sum agreed of £8,000 to Graphics Software Limited but Graphics Software Limited have wholly failed to provide the additional training despite repeated requests.

- (b) State the advice you will need to give to your client now and what advice should have been given when the Consent Order was agreed and filed at court.

**(12 marks)**

Now, for the purposes of Question 4(c) assume you were acting for the **Claimant**, Graphics Software Limited, in this action and you had not received the sum of £8,000 from the Defendant.

The Claimant has obtained a judgment order for £8,000.

- (c) Explain how the claimant would be able to decide which method (or methods) of enforcement would be most appropriate and state the methods of enforcement available to the Claimants to recover the judgment sum.

**(7 marks)**

**(Total: 24 marks)**

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