



THE CHARTERED 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 textbooks into the examination.
- In the examination, candidates must comply with the CILEx Examination Regulations.

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* 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**

ADVANCE INSTRUCTIONS TO CANDIDATES

You are a trainee lawyer in the firm of Kempstons LLP (Kempstons) of The 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 into 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 cases:

- 1) The **Climpton University (CU)** file (file ref: CU/AT/67/14). Kempstons are acting for Climpton University, who are one of the firm's longstanding and valuable clients. This matter involves the Law School. Our main contact there is Deborah Gouda who is the Law School's finance secretary.

Further facts and issues concerning this matter are contained in the documents attached to these case study materials and marked as:

Document 1: Particulars of Claim

Document 2: A court order

Document 3: A witness statement of Deborah Gouda

Document 4: A witness statement of Hamish Rush.

- 2) The **Tosha Khan** file (file ref: TK/AT/56/14). Kempstons act for Ms Tosha Khan in connection with her claim for personal injuries and losses sustained in a road traffic accident on 13 November 2013. Further information concerning this case is contained in the Attendance Note attached to these case study materials and marked as **Document 5**.
- 3) The **Indira Holton** file (file ref: IH/AT/35/14). Kempstons act for Ms Indira Holton in connection with a claim that has been made against her by Sadiq Hussein arising from a road traffic accident in which Sadiq was injured. There are some evidential matters arising in this case and Mark asks you to look through the file and deal with the matters that he will e-mail to you. Further information of this case is contained in **Document 6** attached to these case study materials.
- 4) The **Tank Holding Ltd** file (file ref: THL/AT/36/13). Kempstons act for Tank Holding Ltd (THL). Details of this case are contained in the Attendance Note attached with these case study materials and marked as **Document 7**. You also have the defence filed in this matter attached with these case study materials as **Document 8**.

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DOCUMENT 1

IN THE NORTHAMPTON COUNTY COURT

CASE NO 2013CC186

DESIGN PRINTING LTD

CLAIMANT

and

CLIMPTON UNIVERSITY

DEFENDANT

PARTICULARS OF CLAIM

1. By a contract dated 12 September 2013, a copy of which is attached to these Particulars of Claim (Appendix 1), the Defendant ordered the goods set out in paragraph 3 below, for the price also there set out.
2. The Defendant ordered the goods by reference to the description given by the Claimant's representative, on the order form provided by the Claimant, and subject to the terms and conditions referred to in the order form and set out in the Claimant's catalogue and on the Claimant's website. An extract of the terms and conditions are attached to these Particulars of Claim (Appendix 2).
3. The goods ordered were:

6,000 Magazine Type D (Prospectus) @ £1.20 per unit	=	£7,200.00
VAT @ 20%		£1,440.00

TOTAL	£8,640.00
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4. The Claimant delivered the goods to the Defendant's premises on 23 September 2013, together with an itemised invoice for the above sum, a copy of which is attached to these Particulars of Claim (Appendix 3). The Claimant's terms of business, which are incorporated in the contract, require payment within 14 days of delivery. Payment was therefore due by 7 October 2013.
5. On 30 September 2013 the Defendant notified the Claimant that there was a printing error on the front cover of the prospectuses. The Claimant offered to rectify this at no extra charge.
6. Payment for the goods has not been received.

PARTICULARS

Cost of goods as per invoice dated 23 September 2013	£7,200.00
VAT thereon	<u>£1,440.00</u>
Total	£8,640.00

The Claimant also claims interest on the sum above from 7 October 2013 to date at the rate of 8%, being 43 days at a daily rate of £1.89 totalling £81.27, or at such other rate as the court shall consider just, continuing until judgment or earlier payment in pursuance of s.69 of the County Courts Act 1984.

AND THE CLAIMANT CLAIMS:

1. £8,640.00
2. Interest to the date hereof at the daily rate of £1.89 for 43 days being the sum of £81.27
3. Interest continuing at a daily rate of £1.89.

I believe that the facts stated in this Particulars of Claim are true.

Hamish Rush.

Hamish Rush

Dated this 19th day of November 2013

To the District Judge
To the Chief Clerk

Lemon & Co Solicitors
15 Purlin Road
Northampton
NN18 4NA
Solicitors for the Claimant

Turn over

Design Printing Ltd
Unit 14, Villa's Trading Estate
Luton Road
Luton
LU5 6XJ

ORDER FORM

Date:	12 September 2013
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Customer details:

Name	Climpton University
Address	Department of Law, The Law School, 3 rd and 4 th Floor, Ashley Building, Bedford, MK41 2BD

The Customer requests that Design Printing Ltd supply the goods specified below:

(please indicate by an 'x' as required)

- | | |
|---|-------|
| 1. Delivery to customer address above | [X] |
| 2. Delivery to alternative address (please specify) | [] |
| 3. Customer will collect | [] |

Cat no.	Description of goods	Quantity	Price per unit (£)	Total Price (£)
232/98	Magazine Type D (Prospectus)	6000	1.20	7200.00

Total	7200.00
Less any discount	(00.00)
Total less any discount	7200.00
VAT @ 20%	1440.00
TOTAL	8640.00

Orders will be dispatched as soon as possible and are placed subject to our full terms of business as set out in our current catalogue. These may also be obtained from our website www.design.printing.co.uk or on request.

**Design Printing Ltd
Unit 14, Villa's Trading Estate
Luton Road
Luton
LU5 6XJ**

Terms and Conditions

(Extract from terms as contained in catalogue)

3. Design Printing Ltd ('DPL') will deliver goods to such address within the United Kingdom as may be requested. A delivery charge will apply where delivery address is greater than 25 miles from DPL's address (details on application). DPL will deliver goods as soon as reasonably possible. It is the customer's responsibility to notify DPL of any delivery times that are not convenient. Failed deliveries will attract a charge (details on application).
6. While DPL will take all reasonable steps to ensure that goods supplied conform to the description in DPL's catalogue and on DPL's website, goods supplied may vary, and no liability is accepted where goods supplied conform substantially to the description. In the event of there being any substantial defects in the goods supplied, DPL may at its absolute discretion rectify defects or provide replacement goods within a reasonable time.
12. Prices are as specified in the catalogue and on the website. Where there is variation between the two, the website price shall apply. Discounts to prices will be applied only in accordance with special offers contained in the catalogue or on the website or otherwise notified to customers, or specifically agreed.
13. Unless specifically agreed otherwise payment is due within 14 days of delivery or collection as the case may be.
18. All goods supplied by DPL are supplied in accordance with these terms and conditions except where otherwise agreed between the parties.

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**Design Printing Ltd
Unit 14, Villa's Trading Estate
Luton Road
Luton
LU5 6XJ**

INVOICE

**Invoice No: 0069/2013
Date: 23 September 2013**

**To: Climpton University, Department of Law, The Law School, 3rd and
4th Floor, Ashley Building, Bedford, MK41 2BD.**

In respect of goods delivered to your address as above on 23 September
2013 in accordance with your written order of 12 September 2013:

6,000 Magazine Type D (Prospectus) @ £1.20 per unit =	£7,200.00
VAT @ 20%	£1,440.00

TOTAL payable within 14 days	£8,640.00
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Our full terms of business are as set out in our current catalogue or can be obtained from our website
www.design.printing.co.uk or on request.

DOCUMENT 2

IN THE NORTHAMPTON COUNTY COURT

CASE NO 2013CC186

DESIGN PRINTING LTD

CLAIMANT

and

CLIMPTON UNIVERSITY

DEFENDANT

ORDER

Before Deputy District Judge Dunn

IT IS HEREBY ORDERED that:

No notice of intention to defend having been given by the Defendant, judgment is hereby entered for the Claimant and the Defendant is ordered to pay the Claimant £8,640.00 and £177.66 interest and £500.00 costs within 14 days.

Dated 9 January 2014

Turn over

Deborah Gouda
DG 1, DG 2
15th January 2014

IN THE NORTHAMPTON COUNTY COURT

CASE NO 2013CC186

DESIGN PRINTING LTD

CLAIMANT

and

CLIMPTON UNIVERSITY

DEFENDANT

WITNESS STATEMENT OF DEBORAH GOUDA

I, Deborah Gouda, of Climpton University, Department of Law, The Law School, 3rd and 4th Floor, Ashley Building, Bedford, MK41 2BD will say as follows:

1. I am the Defendant's Law School Finance Secretary.
2. The Defendant is a university providing a variety of academic courses. The Department of Law is one of the largest and most prestigious of the University's departments, offering a wide range of different Law-related courses.
3. Higher education now is a competitive business, with universities competing with each other for potential students. It is important that the university presents itself to potential students in such a way that we attract not only a large number of students, but the best students. That being so, we place a high importance on publicity and open days. The quality of our website and of our printed material, particularly the prospectus, is of key importance.
4. Nevertheless, we do need to keep costs under control, and, having received an instruction from the Vice Chancellor to find efficiency savings, I decided to investigate the use of alternative sources for our printed materials.
5. In early September 2013, I received a marketing call from the Claimant offering to supply us with high-quality printed goods. I asked if a representative could visit and give me an idea as to what the Claimant could provide. We arranged a time on 12 September 2013.

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6. On 12 September 2013 Mr James Burton, one of the Claimant's representatives, came to see me. I explained that we placed a lot of our printing work with outside companies and that I wanted to have a look at their suppliers. I also told him that we had an urgent need for the printing of new Law prospectuses in time for an important Law Fair due to take place on 10 October 2013. Mr Burton assured me that their quality of work was second to none, that their prices were competitive and that they would have no difficulty in printing in time for that deadline. He also said that if we decided to use the Claimant regularly we would qualify for a substantial 'good client' discount and special payment terms.
7. Mr Burton showed me some samples of printing work carried out for other clients, including one other university prospectus, and gave me a quote for the work I was interested in. As far as I could see, the quality of these examples was good, and the price was competitive. Given that the deadline was tight I decided to order 6,000 prospectuses there and then. I said that if we were satisfied with these it was likely that we would use the Claimant for a range of printing work so that we could qualify for the discount. Mr Burton said that if we did do that then the discount could be backdated to cover this order.
8. I said that I had the draft prospectus available. I gave Mr Burton a copy of this draft prospectus. Mr Burton suggested that, to save time, we could prepare an order electronically and submit it through the Claimant's website. Using the computer on my desk, Mr Burton then called up the order form from their website, we filled in the order details and sent it off. I was told that the order would take 10 to 12 days to complete. As Mr Burton was leaving he gave me a copy of the Claimant's catalogue and said that if I needed to speak about anything I could telephone or look at the information on the company's website.
9. The prospectuses were delivered on 23 September 2013. I was away from the office at that time and so did not see them until 30 September 2013. I was not impressed to find that on the front cover of the prospectus the university name had been printed as 'Clompton University'. I felt this misprint to be completely unacceptable. My confidence in the Claimant company had been damaged by this. In addition, once I had looked at the goods themselves I was unimpressed with their quality. The paper quality did not look as good as I had been expecting, and some of the colours appeared unnaturally bright. I was not happy with them.
10. That day I telephoned Mr Burton and left a message for him explaining about the misprint and saying that I was not happy with the prospectuses. When I came back to the office on 1 October 2013, I found that Mr Burton had left a telephone message for me apologising for the misprint and saying that they would reprint the covers and rebind the prospectuses and that this could be done by Friday 4 October 2013 if I contacted him to arrange a time for the goods to be collected.
11. I was not happy with this proposal, as I was not pleased with the quality of the printing overall, and so on 1 October 2013 I sent the Claimant an e-mail (copy attached as 'DG1') saying that I was not satisfied with the goods, and asked Mr Burton to contact me to discuss the matter.

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CASE STUDY MATERIALS

12. I heard nothing further until 9 October 2013 when I received a letter from the Claimant (dated 8 October) demanding immediate payment of the whole price (£7,200 plus VAT).
13. I immediately sent Mr Burton another e-mail, copy attached as 'DG1', saying that I would not be paying for anything until he replied to my earlier e-mail.
14. Having received no response to this second e-mail I sent the Claimant a letter dated 24 October 2013 (attached as 'DG2') explaining why I was unwilling to pay for the goods and requiring the Claimant to take them away. I received no reply from the Claimant except for a two-line letter dated 5 November 2013 threatening to sue me. Given that the Claimant had not responded to any of my concerns, I think this was unreasonable.
15. On Monday 13 January 2014, I received a copy of an order made by the court dated 9 January 2014 requiring me to pay £8,640.00 plus £177.66 interest, plus £500 costs. I was not aware that any proceedings had been issued and so this came as a complete shock to me. I immediately telephoned Mr Burton to try to find out what was going on, but could get no reply to my call. I then made enquiries of my office manager, Annabel Smith, and asked her to carry out a thorough check of the office. Later that day, Annabel reported that she had discovered some unopened correspondence under a table in the post room behind a delivery of photocopying paper. Amongst that unopened correspondence was a letter from the Claimant's solicitor enclosing the Claim Form and Particulars of Claim. I immediately made an appointment with my solicitor for today, Tuesday 14 January 2014, and gave my instructions for them to issue an application to set this judgment aside.
16. In the circumstances I believe that the Defendant has a strong case to bring to defend the claim. As soon as the paperwork came to hand we acted as promptly as possible. I do not know how or why the letter found its way under the table and so remained unopened but can assure the court that this was completely unintentional and I do not believe that this unfortunate accident should be allowed to prevent the Defendant obtaining justice in this case.

I believe that the contents of this statement are true.

Signed *Deborah Gouda*
Deborah Gouda, Finance Secretary of the Law School
Climpton University

Dated 15 January 2014

From: Deborah Gouda
Sent: 9 October 2013 17:00
To: jamesburton@designprinting.co.uk
Subject: Fwd: CU Order dated 12 September 2013

Mr Burton

I sent you the e-mail below but have now had a letter demanding payment. I will not be paying for any of these goods until you have replied to me. I am not impressed with the service I have received from your company.

Deborah Gouda

From: Deborah Gouda
Sent: 1 October 2013 11:13
To: jamesburton@designprinting.co.uk
Subject: CU Order dated 12 September 2013

Mr Burton

On 23 September 2013 you delivered the prospectuses which I had ordered on the 12 September. I only saw them on 30 September. I noticed that there was a serious misprint on the front cover and also, having looked at the goods delivered, the quality was very poor – they were not at all what I was expecting. I left a message for you about this, and you then left a return message for me saying that you would correct the printing error. As I am also concerned about the quality of the printing generally, not just the printing error, we need to talk about this. Please contact me asap.

Deborah Gouda

Turn over

Climpton University
Department of Law, The Law School,
3rd and 4th Floor, Ashley Building, Bedford, MK41 2BD

Mr James Burton
Sales Representative
Design Printing Ltd
Unit 14, Villa's Trading Estate
Luton Road
Luton
LU5 6XJ

24 October 2013

Dear Mr Burton,

Re: Our Order dated 12 September 2013

As you know, we ordered some printed prospectuses from your company on 12 September 2013. You visited the University and we dealt with the matter in my office.

The goods were delivered on 23 September 2013, which was within the expected timescale. However, I was away on business so was not aware of this until I came back on 30 September 2013. When I had been able to look at the goods I was appalled. On the front cover the University had been shown as Clompton University, not Climpton. The fact that you sent these out with such a serious and obvious error on them makes me doubt the quality of your whole operation and I really don't have any more confidence in your company.

Also, the goods were not what I was expecting – the paper and the print quality is poor. The paper looks cheap and the ink is garish. Not at all what I had been expecting from the samples you showed me.

I will not pay for these goods. Please come and take them back.

Yours sincerely,

Deborah Gouda
Deborah Gouda
Law School Finance Secretary

DOCUMENT 4

Claimant
H Rush
1st
16th January 2014

IN THE NORTHAMPTON COUNTY COURT

CASE NO 2013CC186

DESIGN PRINTING LTD

CLAIMANT

and

CLIMPTON UNIVERSITY

DEFENDANT

WITNESS STATEMENT OF HAMISH RUSH

I, Hamish Rush, Managing Director of Design Printing Ltd, Unit 14, Villa's Trading Estate, Luton Road, Luton, LU5 6XJ will state as follows:

1. I am the Managing Director of the Claimant company and I make this statement in response to the Defendant's application to set aside judgment obtained by the Claimant on 9 January 2014.
2. The Claimant company is a printing business. We provide high-quality printed products for the most part to trade customers. The business relies heavily on direct marketing – telephone contact with businesses and organisations which we believe would be interested in our goods, and mail-shots where we send out copies of our promotional material and our catalogue. Much of our business is transacted through our website.
3. Like most businesses we need to be competitive. Towards the end of last year we launched a big marketing drive, producing a new catalogue and updating our website, offering a variety of discounts and special promotions. In conjunction with this we had a big direct marketing campaign contacting many potential customers, including the Defendant.
4. In early September, we had a positive lead from a direct marketing call to Climpton University. I allocated that lead to one of our sales representatives, Mr James Burton.

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5. On 12 September 2013, we received an order from the Defendant through our website. This was for 6,000 printed prospectuses, of the type we advertised as 'Magazine Type D'. I understand that this order had been placed via our website while Mr Burton was at the Defendant's premises. We processed this order in the usual way and in accordance with our terms and conditions delivered it as soon as we could, which was on 23 September 2013. The invoice, as is our usual practice, was delivered with the goods, the full price being payable within 14 days.
6. On 30 September 2013, Mr Burton spoke to me, telling me that he had received a telephone message from Ms Gouda, the Defendant's Finance Secretary, saying that there was a spelling error on the prospectus cover. Mr Burton confirmed that this was correct and I instructed him that in the circumstances we should tell the customer that we would reprint the cover and rebind the goods at no extra cost and within three working days of collecting the goods. I understand that Mr Burton communicated that information to the Defendant.
7. Ms Deborah Gouda, who has provided a witness statement on behalf of the Defendant, attaches a copy of an e-mail she claims to have sent to Mr Burton on 1 October 2013. As Managing Director I have access to all company e-mail accounts and can confirm that we did not receive any such e-mail.
8. As we had received no response from the Defendant to our offer to reprint the goods, on 8 October 2013 I sent Ms Gouda a reminder letter as payment was due by 7 October 2013. Ms Gouda claims that she sent Mr Burton another e-mail on 9 October 2013. Again, I can confirm that we received no such e-mail. The first we heard from her was on 26 October 2013 when we received a letter dated 24 October 2013, a copy of which is attached to Ms Gouda's witness statement.
9. The Claimant received the Defendant's order and processed it in the normal way. The goods were delivered and they are the goods advertised in the catalogue and on our website and as discussed with Mr Burton. The Claimant offered to rectify the problem reported as to the spelling error, but the Defendant did not take the Claimant up on that offer. It was not until more than a month later that the Claimant had any indication from the Defendant that there was a problem generally with the quality of the goods supplied. In the circumstances, I did not think Ms Gouda was behaving reasonably and so instructed my solicitor to take action. A letter was sent on 5 November 2013 warning the Defendant that if payment was not received by return then the Claimant would issue proceedings for the outstanding amount. No reply was received so proceedings were issued on 19 November 2013.
10. Again, no response was received to the proceedings, so I instructed my solicitor to apply for judgment to be entered, and an application was made on 6 January 2014, with the order being granted on 9 January 2014. With the Christmas and New Year periods we applied for judgment later than we could have done, so in reality the Defendant has had more time to file their defence.

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11. Only after the order was made was anything heard from the Defendant. I have seen Ms Gouda's witness statement. Her reasons for not responding to the proceedings show that it was completely the Defendant's own fault. The facts show that the Defendant has no chance of defending the case anyway.

12. In the circumstances I ask that the Defendant's application to set judgment aside be refused.

I believe that the contents of this statement are true

Signed *Hamish Rush.*

Hamish Rush

Dated 16 January 2014

Turn over

DOCUMENT 5

ATTENDANCE NOTE

Matter No: TK 1/1 **Fee Earner:** TS
Attending: Tosha Khan (TK) **Location:** Office
Date: 6 January 2014 **Time Spent:** 0.5 units

Re: Ms Tosha Khan

Flat 6a, 12 High Hill, Northampton, NN12 9PL

Date of Birth: 13 April 1980

Employed by: Sleeping Beauty Limited

**As general manager of the Northampton Sleeping Beauty
Travel Lodge**

Our client is Ms Tosha Khan (aged 33 years).

On 13th November 2013, she was driving her car along the A428 towards Bedford and had just driven through Yardley Hastings. She was on her way to play tennis at the indoor courts just outside Bedford. She was approaching the sharp bend in the road (just half a mile past Yardley Hastings). The road is quite narrow at this point. She was driving at about 35 mph (there is a camera in Yardley Hastings and she would have been doing only 30 mph at this point but had accelerated only a little as she neared this bend). She sounded her horn as she entered the bend to alert any oncoming vehicles. As she rounded the bend, she suddenly saw a white van travelling fast in the opposite direction. She states that she had heard no warning from the van driver before it came into view. She also says that although she was driving on the correct (left) side of the road, her impression was that the van was in the middle of the road and might have been slightly on her side of the road.

Tosha tried to steer to the left to avoid a collision, but there was not enough room and the two vehicles collided. The force of the impact caused both vehicles to leave the road. The van ended up on a grass verge, but her vehicle slid into a ditch and rolled on to the driver's side, crushing her leg and pelvis. She does not think she ever lost consciousness. She was wearing her seat belt.

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Tosha was released from her vehicle by two police officers who arrived shortly after the accident, and taken by ambulance to Bedford District Hospital, where she was treated for two fractures to her left leg, multiple knee ligament injuries, and a fractured pelvis. She was in hospital for four days. When she was discharged, her left leg was in plaster and she needed to use crutches as she could not put weight on her leg for a further two weeks. Her mother came to live with her for three weeks to help her manage at home.

Tosha is no longer in plaster, but has been told that she may always walk with a limp. She is not yet back at work but expects to be able to return to work in about three or four weeks' time. As her job involves a lot of walking and the use of stairs several times a day, she is worried that her knee will not be up to it. As general manager of the Northampton Sleeping Beauty Travel Lodge her salary is £32,000 p.a.

Tosha holds the van driver, Clive Hopton, entirely to blame for the accident and wishes to claim damages for her injuries, loss of earnings and damage to her car and clothing from him or his employers, whom she understands to be ToolKit and Bits Ltd, based in Northampton.

Advice given: (This advice is NOT included with the case study materials)

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DOCUMENT 6

Relating to the Indira Holton file

An extract of an e-mail you have received from your supervising partner this morning, while handling matters for him on this file.

Hello (your name)

Thank you for handling matters today for me.

One of the matters I would like you to look at for me is on the Indira Holton file (file ref: IH/AT/35/14).

As you will see from a review of this file, we act for Indira who is the Defendant in a claim being made against her by Sadiq Hussein. You will see that Indira 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 Sadiq. You will see that Indira 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 Sadiq Hussein's Legal Representative who told me that he had just received Notice that Indira had been convicted of speeding and been fined £60 with three penalty points. He told me that the offence happened on the day that Sadiq was injured.

Please review the file for me and deal with the matters I have listed for you

(These will be set out in the Question Paper).

Regards

Mark

ATTENDANCE NOTE

<u>Matter No:</u>	MJ 12/1	<u>Fee Earner:</u>	MJ
<u>Attending:</u>	Bill Waters (WW) MD Tank Holding Ltd	<u>Location:</u>	Office
<u>Date:</u>	5 December 2013	<u>Time Spent:</u>	1.5 units

Re: Tank Holding Ltd (THL)

Reg Office (and premises)

Unit 12, Furlough Trading Estate, Northampton, NN16 2RE

New Client.

Claim: £200,000 from Metals Direct Ltd (MDL)

Tank Holding Ltd (THL). THL's registered office and manufacturing plant is at Unit 12, Furlough Trading Estate, Northampton, NN16 2RE.

THL is a manufacturer of effluent tanks and other industrial equipment which it supplies predominantly to farms and engineering companies who require large holding tanks for sometimes toxic liquids. It has an international customer base. Its managing director is William (Bill) Waters (direct line 01460 123456).

In early November 2013, THL contacted Metals Direct Ltd (MDL) with an enquiry for the supply of 2 tonnes of copper to meet an order they had for the supply of six large copper tanks able to contain toxic and hot chemicals.

THL initially made contact with MDL by telephone on 11 November 2013. This led to a meeting on 14 November 2013 between Bill Waters and Sarah Gilly, who is the contracts manager at MDL (and also a director of MDL).

The meeting was held at MDL's offices. During this meeting, Bill discussed MDL's business history and experience in the industry. By what Sarah told him, Bill was satisfied that MDL was a well-established company with a good client base.

A further meeting was arranged for 2 December 2013 when Sarah would provide further details and prices of the copper they could supply. At this meeting, Bill and Sarah also discussed the requirements for the copper tanks THL would manufacture

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and the materials that the tanks would store. Sarah reassured Bill that the tanks would withstand extremely high temperatures and toxic materials.

This meeting took place at MDL's premises at The Works, Acorn Distribution Centre, Burton Trading Park, Boon Road, Stoke on Trent, Staffordshire, ST5 13RG. Sarah also showed Bill around MDL's factory.

Before the meeting ended, Bill agreed to buy 2 tonnes of sheet copper for an agreed price of £200,000 and he signed a purchase order. The delivery date was agreed to be 13 December 2013 with full payment being made on delivery.

On 13 December 2013, the sheet copper was delivered to THL and payment was made by bank transfer on the same day.

THL commenced work on manufacturing the tanks almost immediately, using the sheet copper. The fabrication manager called Bill into the fabrication workshop and told him that he thought that the sheet copper was of very poor quality and he 'didn't think it would be up to the job (it was required for)'. He didn't believe that any tanks made with the sheet copper would be suitable for its intended use. Bill sought the advice of a metallurgy expert, Mr Fowler. Mr Fowler confirmed the poor quality of the copper.

THL are seeking the repayment of the contract price.

IN THE HIGH COURT OF JUSTICE
NORTHAMPTON DISTRICT REGISTRY
BETWEEN

CLAIM NO: CP100923

Tank Holding Limited

Claimant

and

Metals Direct Limited

Defendant

DEFENCE

1. It is admitted that the Claimant is a company trading in the manufacture and supply of storage tanks for effluent, toxic and other waste materials.
2. It is also admitted that a meeting took place on 14 November 2013 between the managing director of the Claimant and a director of the Defendant and that a subsequent meeting took place on 2nd December 2013.
3. The express terms as set out in the Particulars of Claim are admitted.
4. The implied terms as set out in the Particulars of Claim are denied. It is denied that the goods were not of satisfactory quality and not fit for purpose.

STATEMENT OF TRUTH

I believe that the facts stated in this Defence are true. I am duly authorised by the Defendant to sign this statement.

Signed *Sarah Gilly*

Director and Contracts Manager of the Defendant company

Dated 6th January 2014

To the Claimant
To the Court Manager

End of Case Study Materials

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