

CASE STUDY MATERIALS

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Level 6
CIVIL LITIGATION
Subject Code L6-15

The logo for ILEX, consisting of the word "ilex" in a blue, lowercase, sans-serif font.A diagonal banner in the top right corner with the text "StudentBounty.com" in a white, sans-serif font. There is a small crest logo to the right of the text.

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 that 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 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**.

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 Bedfordshire.

You arrive at work one 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 also asks that you check his post and progress any matters that require attention.

He briefly mentions the following cases:

- 1) The Blu Limited case.** In this case Kempstons are acting for Blu Limited. Your client company is an IT company that specialises in the creation and installation of bespoke computer software. They have written and installed a computer programme for Medical Limited. The programme was designed to enable Medical Limited to record and automatically re-order medical supplies from its various suppliers. Medical Limited are alleging that the programme written and installed by your client company does not have the functionality prescribed in the contract.

You had sat in on the initial meeting that your supervising solicitor, Mark Jones, had had with Claire Ditton, the sales director of Blu Limited. This was four months ago.

Claire had attended the office for advice concerning proceedings that had been commenced against the company by Medical Limited. She had brought the claim form that had been served upon them. Accompanying the claim form was the particulars of claim and the response pack. All these documents had been served on the company five days before the meeting. After the meeting and the advice given to Claire it was agreed that she would consider matters further with her co-directors and call Mark back within a week.

Claire now has an appointment to see Mark at 2pm.

Claire has not dealt with any of the documents since she last saw Mark.

- 2) The Gulfraz Khan case.** Mark tells you that he saw Mr Khan last week and sent a client questionnaire to him to complete and return. The completed client questionnaire arrived last Friday but Mark has not yet had a chance to look through it. He asks you to look through the completed questionnaire for him. This is attached as **Document 1**.

- 3) The Watson case.** Mark tells you that he wishes you to consider material relating to evidence on this file.

You act for Peter Watson and his insurers in a personal injury claim brought against him by Charlotte Pitt. The claim arises from a Road Traffic Accident in July 2009. Charlotte Pitt was hit by your client's car as she stepped from the kerb into the road which she was attempting to cross. Charlotte Pitt suffered a double fracture to her right leg and cuts and bruises in the accident. She claims that the road was clear when she stepped to cross and that Peter Watson was speeding and that this is why he did not see her approaching in his car.

Peter Watson claims that he was driving within the speed limit in force on the particular road where the accident took place. He has informed you that the accident occurred because Charlotte Pitt ran into the road without looking as she was running for the bus that had pulled up at the bus stop opposite. He says that he braked instantly but could not stop in time to avoid a collision.

Your client was subsequently convicted by the Kempston Magistrates Court for Careless Driving pursuant to Section 3 Road Traffic Act 1988. Notwithstanding this conviction your client is strongly defending the claim on the basis that Charlotte Pitt was wholly responsible for the accident by not looking before running into the road.

- 4) The Pasta Supplies Limited case.** Mark reminds you that this is a debt recovery case where summary judgment was obtained last month against the defendant, Mr Ratti, but the judgment has not yet been satisfied. Mr Preston, the Managing Director of Pasta Supplies Limited, the client company, has an appointment at 11.00am to discuss further action to be taken.

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DOCUMENT 1

EXTRACT FROM CLIENT QUESTIONNAIRE

ACCIDENT AT WORK

A. Personal Details

Name and address Gulfraz Khan, Highfields, 52 North Road,
Northam, Bucks, BB8 7GH.

Date of Birth 28th May 1977

Marital Status Single, living with partner (Suzanne)

B. Details of Employer at the time of the accident

Name and address of employer

'Circus Enterprises Ltd' – Unit 1, Welling Industrial Estate, Northam, Bucks, BB1 3TX

Job at the time of the accident and length of employment at time of accident

A circus stagehand and maintenance engineer for Circus Enterprises Limited. The company operate a circus.

Date commenced employment with current employer:

I began work on with them on 17th March 1999.

C. Details of the accident

On what date and time did the accident occur?

15th March 2008 at about 1.00pm.

Explain how the accident occurred

Please include where the accident took place, what you were doing at the time of the accident and whether anyone witnessed the accident.

As a stagehand, I was responsible for the construction and maintenance of sets and props for the various performers. The circus operated by Circus Enterprises Limited does not include animals, the circus performances are all based upon feats of bravery and endurance by the performers. The circus is based in Northam, and is sited there permanently, it does not travel around the country.

On the day in question, together with my colleague, Clive Birks, who is also a stagehand, I was preparing the props for 'Fearless Freddy'. In the 'Fearless Freddy' act Freddy rises to the top of the circus tent in a gas powered balloon and then carries out acrobatics from a tightrope suspended from the roof. The flammable gas canisters are stored on site, in a basement below the auditorium. They are delivered weekly by Gasworks, a company specialising in the supply of gas canisters to the entertainment industry.

Each week, Gasworks collect the empty canisters and replaces them with re-filled and sealed canisters. Either Clive or I sign in the new delivery of canisters and sign out the empty ones. We also stack and store the canisters in the basement.

On the day in question, Clive and I were moving a canister into place under the balloon, which is also stored in the basement when not in use. As we did so, I remember seeing that a consignment of canisters that had been delivered that day were stored near the props for 'Brave Belinda' the fire eater. I had not taken delivery of them. Suddenly there was a big bang as the canister we were moving exploded and a ball of flames flew out of the canister. My sweater caught fire and I felt a searing pain in my hands, face and my back as they were burned by the flames.

Through my pain, I saw Clive lying face down at the back of the store room. I thought he had been killed in the blast. I then lost consciousness, more from the shock I think than anything.

D. Details of your injuries and medical treatment

Give details of injuries that you received / where you received your initial treatment

I was taken to Bedfordshire Hospital. There I was found to have suffered third degree flash burns over some eight or nine percent of my skin including the backs of both hands, my face, the right side of my back and my right elbow.

Please give details (as far as you are aware) of

- **the treatment you received and how long you were in hospital**
- **who looked after you when you left hospital**

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I remained in hospital for a week where the burns were treated. When I got home, my partner, Suzanne looked after me. She had to apply antiseptic ointment to my skin several times a day and to change the gauze and bandages which I had to have on my back and elbow. My hands had to be covered at all times with cotton gloves and then elasticated 'pressure' gloves. It was difficult for me to do anything for myself. She had to take time off work to look after me.

I was unable to sleep during the night; I kept seeing the explosion and Clive lying motionless in the store room. He did survive but was badly burned.

What has your state of health been since the accident?

I was able to return to work after 16 weeks. During this time, I received four weeks pay and nothing after that. I have some scarring on my face and hands and in cold weather, I experience a tightening of the skin over the back of my hands. Sometimes it is so unpleasant that I need to take painkillers. I have been told that I can have plastic surgery to correct this but it will cost £5,500 to have this done privately and there is a very long waiting list on the National Health Service. I have been trying to save the money but do not have enough to pay for it. About two months after the accident, I was referred by my Doctor to a psychiatrist because I was becoming more disturbed by flashbacks of the accident. He told me that I was suffering from reactive depression. I had ten private sessions with a psychiatric nurse and now feel less depressed and less irritable but I still have flashbacks and very low periods. This has put pressure on my relationship with Suzanne and I have more time off work than I used to do. I also cannot afford more psychiatric therapy and my Doctor won't prescribe more sessions for me on the NHS.

When I returned to work my duties changed and I am now employed to take calls in the box office. I earn around £50 per week less than before but I believe that I have gained new and useful administrative skills. This job is not so physical and I have put on weight because of this.

Any further relevant information

I heard after I returned to work that Gasworks no longer supply Circus Enterprises with the gas canisters.

End of Case Study Materials

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