

CASE STUDY MATERIALS

June 2013
Level 6
PRACTICE OF FAMILY LAW
Subject Code L6-20



CHARTERED INSTITUTE
OF LEGAL EXECUTIVES

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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 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 employed by Kempstons LLP 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 LLP is headed up by the matrimonial partner Graham Hughes. 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 Graham Hughes
- Document 2** Attendance Note re Paul Irving
- Document 3** Attendance Note re Naomi Bloomfield
- Document 4** E-mail from Stuart Ovenby
- Document 5** Attendance Note re Rita White

DOCUMENT 1

Memorandum

To: Trainee Lawyer

From: Graham Hughes

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 fortnight on annual leave. Please attend to the following cases during my absence:

1. Paul Irving

Mr Irving is a new client. I saw him for a first appointment yesterday and attach a copy of the Attendance Note of this meeting (**Document 2** attached). Please deal with this case in my absence.

2. Naomi Bloomfield

I have been dealing with Naomi'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 3** attached). Please deal with any queries Mrs Bloomfield has.

3. Stuart Ovenby

I assisted Mr Ovenby with his divorce proceedings some time ago. I attach a copy of an e-mail I received from him earlier today (**Document 4** attached). Please progress the case.

4. Rita White

Miss White is a new client who attended at the office late this afternoon. I attach a copy of the Attendance Note of this meeting (**Document 5** attached). Please take any action required on this case during my absence.

Many thanks,

Graham

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DOCUMENT 2

(Attendance Note re: Paul Irving)

Client: Paul Irving

Date: [Yesterday's date]

Fee earner: Graham Hughes

File ref: GH/LR/I103

Time taken: 1 hour

Attendance on Mr Paul Irving who is a new client. I obtained the proof of identity documentation and carried out the usual conflict checks. There are no issues. His details are as follows:-

Full Name: Paul Michael Irving

D.O.B.: 01/02/1975

Address: 10 The Pines, Green Park, Clayton, Barnardshire, BH14 3LR

Phone number: 07715945203 (mobile)

Occupation: Research Scientist

Mr Irving wanted advice about his options following the breakdown of his relationship with his wife. He confirmed that he and his wife Emma Samantha Irving (d.o.b. 17/11/1976) had now been separated for some time.

The couple have been married for fifteen years. They have 2 children: Alexander Irving (d.o.b. 05/08/2000) and Faith Irving (d.o.b. 23/03/2005). The parties' matrimonial home is 2 Juniper Avenue, Clayton, Barnardshire, BH8 5TP. It's a three bedroom detached property held in the couple's joint names. Mrs Irving lives at the property with Xander and Faith. Mr Irving lives at 10 The Pines and works as a Research Scientist for a pharmaceutical company. His wife works part-time as a Supply Teacher.

In November 2007 he discovered that his wife was having an affair. His wife immediately ended the affair and Mr Irving tried to reconcile with his wife for the sake of the children. However, the reconciliation failed and he moved out of the former matrimonial home on 10th June 2008. He said that despite the fact that his wife's behaviour since she broke off the affair had been blameless, as far as he was concerned their marriage was at an end. However, he told me that his wife refused to contemplate a divorce even though he has said he is happy to transfer the former matrimonial home to her outright as part of the settlement. He is already paying voluntary spousal maintenance to her.

I explained to Mr Irving the ground for divorce and the five facts. He confirmed that he would like to start a divorce as soon as possible and would think over his options and let me know how he wanted to proceed. He would like to keep the relationship with his wife as amicable as possible for the sake of the children and is also anxious to keep the divorce costs to a minimum.

Client: Naomi Bloomfield

Date: [dated last Wednesday]

Fee earner: Graham Hughes

File ref: GH/LR/B169

Time taken: 45 minutes

Attended upon Naomi who told me that she had received the decree nisi, pronounced in relation to her behaviour petition last week. She confirmed that her husband Aaron had also received the pronouncement from his lawyers in the post last week. She told me that he was still in denial about the divorce and had nearly ruined Jacob's Bar Mitzvah by insisting on talking to the Rabbi about its validity. She admits that the behaviour she cited is relatively minor and accepts that after 17 years of marriage the divorce has been a bitter blow to him.

Naomi explained that she finally had been able to obtain the figure for the Cash ISAs held in Aaron's sole name which had been omitted from his voluntary disclosure. We therefore ran through the up-to-date figures for the valuation of the parties' assets:-

- Former matrimonial home: 32 Egerton Road, Clayton: held in the parties' joint names as joint tenants and valued at £375,000
less mortgage of £125,000
: net equity £250,000
- Joint life assurance policy with a surrender value of £30,000
- Shares in Aaron's sole name £100,000
- Shares in Naomi's sole name £50,000
- Cash ISAs in Aaron's sole name £30,000
- Cash ISAs in Naomi's sole name £25,000
- Aaron's pension: C.E.T.V. £85,000
- Naomi's pension: C.E.T.V £70,000

As both children are now at secondary school, Naomi (40) recently increased her hours so she now works full-time as a Management Consultant and earns approximately £30,000 net per annum. Aaron (43) earns £35,000 net per annum.

The parties are still both living at the former matrimonial home which is a four bedroom detached property. Naomi admitted that it was a difficult situation and that she is desperate to move out with the children as soon as she is able. The couple have already agreed that when they are living separately Aaron will pay the child maintenance for the parties' two children Tabitha (15) and Jacob (13) via the CSA.

I confirmed that I would contact Naomi shortly to review matters with her but suggested that she contact me if she had any queries in the meantime.

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DOCUMENT 4

(e-mail from Stuart Ovenby)

[Date: Today's date]

Dear Graham,

How are you? I can't believe that it's now two years since you acted for me in the divorce. In the nicest possible way I'd hoped never to see you again professionally! However it looks like I may need your help again please.

I don't know if you remember but when we divorced, Karen and I agreed that Marcus and Victoria would live with her at the former matrimonial home but that I would have regular contact with them every other weekend and that I would get a share of their school holidays too. Marcus is 12 now and Vicky is 7.

I'm sure you'll still have the old divorce file so you'll be able to check the details as I think we agreed it in writing with her solicitors, although we never went to court about it as I know no orders were made.

Initially Karen stuck to the arrangements we'd agreed, but then about a year ago I started seeing someone and ever since Karen found out that I'm in a new relationship, I've had real difficulties in getting to see the children. It's ironic really, I divorced Karen on the basis of her adultery and now that I've met someone new she can't seem to adjust to things! I think part of the problem is that she's no longer seeing the guy that she had the affair with.

Anyway, problems started about six months ago. I was supposed to be having the children for five days over the Christmas period but then the night before the contact was supposed to take place, Karen telephoned and cancelled it saying that Vicky was unwell and that she didn't want just Marcus to come as Vicky would be too upset. At the time I was disappointed but I didn't think anything more about it.

On my next weekend contact with the children in mid-January, I noticed that they both seemed a bit subdued but I thought perhaps they were just over-tired. However, just before I was about to take them back to Karen, Vicky asked me why I hadn't wanted to see them over Christmas! When I asked her what she meant she said that Mummy had told them that I was too busy with my new girlfriend to spend any time with them over Christmas. I was furious but I didn't want the children to pick up on this so I told them that there must have been a misunderstanding between their Mum and I and I reassured them that I loved them very much and always wanted to spend as much time with them as possible.

My February and March contact visits went ahead as normal and I hoped that the missed one at Christmas had been a one-off. However, when I went to collect the children during their Easter holidays I found no-one at the house. I telephoned Karen's mobile number but just got her voicemail. I texted Marcus to ask where they were and he replied that they were on holiday in Crete with their Mum. Karen had not consulted me about this holiday beforehand and it meant that I didn't get to see the children over Easter.

I was next due to see the children in early May, but since they returned from the holiday I've not seen the children at all, although both Marcus and Vicky have texted me. It seems that for the May visits Karen told them I was ill and for the

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June visit that I'd gone on holiday with my girlfriend. I've tried to contact her but if I telephone her she immediately puts the phone down and when I get around to the house she has shut the door in my face! I've had numerous calls from the children saying that they want to see me. I had hoped that Karen might see that what she's doing is only hurting the children but it's two months now since I last saw them and I think it's time that I got your advice on my options. Despite all of this I do still think that Karen is a good mother and I don't want to uproot the children.

Karen is still living at the former matrimonial home (3 Milebank Crescent, Clayton) and is still working part-time at the travel agents in town. I'm still at my old address, 10 Broadoaks, Clayton and am still working full-time as a Manager at the local superstore.

I'd be really grateful if you could e-mail me with an appointment so that I can discuss where I go from here.

Regards,

Stuart

Turn over

DOCUMENT 5

(Attendance Note re: Rita White)

Client: Rita White

Date: [Today's date]

Fee earner: Graham Hughes

File ref: GH/LR/W201

Time taken: 1 hour

Attendance upon Rita White who is a new client. She needed urgent advice following some incidents of domestic abuse. I completed the necessary conflict checks and obtained the proof of identity documentation. There were no issues. I noted that Rita had a black eye and cuts and bruises to her lower arms.

Her details are as follows:-

Full Name: Rita Leah White

D.O.B.: 31/01/1990

Address: 5 Meadow Drive, Clayton, Barnardshire, BH3 7EV

Temporary address: 46 Princess Street, Clayton, Barnardshire, BH1 9CH (Sister's)

Phone number: 07765089721 (mobile)

Rita has been living with her partner, Dale Owen Underwood (d.o.b. 13/08/89), for two years. They have one son, Caden White (d.o.b. 02/09/12). The couple live together at 5 Meadow Drive which is a two-bedroom flat rented from Barnardshire County Council, Guildhall, Clayton in Dale's sole name. Dale works as a bouncer at a nightclub in Clayton; Rita is currently not working.

Rita explained that she had met Dale in May 2011 when she had gone for a night out with her sister to the nightclub where he works. Dale had chatted to Rita and her sister as they queued to get into the club and he then approached Rita as she was leaving and gave her his mobile telephone number. Rita had telephoned him the next day and they had met up that evening as it was Dale's night off. She said that their relationship had developed from that point very quickly and she had moved into Dale's flat just a month after their initial meeting.

Rita admitted that part of the reason that she had moved in so quickly with Dale was that she had fallen out with her parents and she had therefore been desperate to move out of the family home. When she had moved in with Dale her parents had cut off all contact with her although she was still in touch with her sister. Her sister lives in a one-bedroom flat in Clayton. Rita told me that initially her relationship with Dale had been good but that over time Dale had become increasingly possessive of her.

Due to the nature of his work as a bouncer Dale is out most nights, not returning home until the early hours of the morning when he goes straight to bed. Rita explained that this meant that the couple didn't spend much time together. For

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this reason, Dale had paid for Rita to become a member of the gym so that she could attend so that they could go there together most afternoons.

When Rita joined the gym she had been allocated one of the personal trainers, Ian, who had given her a tour of the facilities. As Rita was at the gym nearly every day, over time she had become friendly with Ian and when the gym was quiet he would join her for a coffee in the café there. Initially Rita said that Dale had just teased her about this, but after a couple of months Dale's behaviour changed and he insisted in accompanying Rita around the gym whenever she went there. When Rita complained to Dale that she found this annoying, he immediately cancelled her gym membership.

She told me that at this point the relationship changed. Whenever she left the house when Dale was home, he wanted to know where she was going and who she was seeing. Dale also started to comment on her appearance, accusing Rita of wearing skirts that were too short and she admitted that a couple of times he had grabbed hold of her as she was leaving the house and had shaken her roughly, threatening not to let her leave unless she changed her outfit.

When Rita discovered that she was pregnant with Caden and told Dale he was delighted and the couple's relationship had improved. However, as soon as Caden was born things deteriorated. Rita told me that Dale became furious that Caden's crying disturbed his sleep. About a month after Caden's birth, in an argument about the baby's crying, Dale hit Rita for the first time. Rita admitted that since then Dale would regularly use violence against her. She informed me that Dale had never been violent to Caden but that Caden was often in the same room when the violence against her occurred.

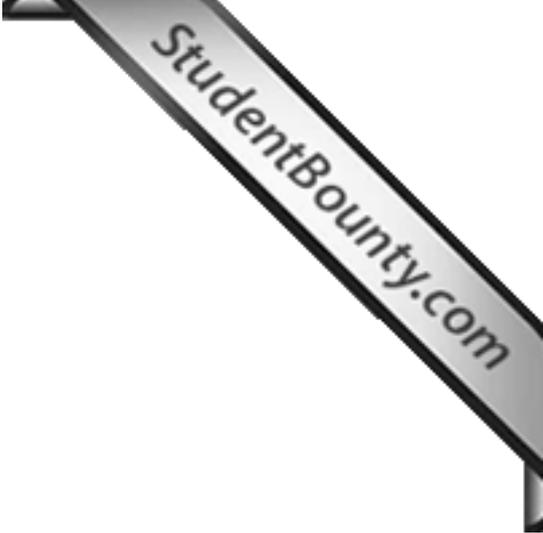
Last night Rita explained that she had gone out with her friends for the first time since Caden was born. Her sister babysat for her. Rita told me that she and her friends had ended up in the club where Dale worked. Ian from the gym had also been at the club with his friends and they had come over to chat. She had seen Dale looking over and worried that he might lose his temper and start a fight she had decided to leave and go home. When Dale arrived back at the flat he burst into their bedroom and grabbed Rita by her arms, dragging her out of bed. She said that she had never seen him so angry. He started screaming and shouting at her accusing her of carrying on with Ian behind his back. When Rita tried to explain it had been a coincidence that Ian was there, Dale punched her in her left eye and was about to punch her again when there was a knock at the door and someone shouted that they had telephoned the police. Dale let Rita go and ran out of the flat. Rita telephoned for a taxi to take her to her sister's so that she could be with Caden. She doesn't know whether the police attended at the flat.

Since the incident Rita has remained at her sister's, but her sister visited the flat this afternoon and there was no sign of Dale and it looked like he had taken some of his clothes. Rita believes that he has gone to his parents who have a three-bedroom terraced house at 20 Pycroft Street, Clayton, BH1 9CY, which is about a mile away from the couple's flat. Rita said she had received a text from Dale that afternoon saying, "I've not finished with you yet".

I used devolved powers to grant Rita emergency legal representation and as the court had closed I advised her to remain at her sister's and return to the office tomorrow.

End of Case Study Materials

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