



**CILEX Level 6 Single Subject Certificate/CILEX Level 6 Professional Higher  
Diploma in Law and Practice/CILEX Level 6 Graduate Fast-Track Diploma**

**Unit 15 – Civil Litigation**

**Case study materials**

**January 2025**

**Information for candidates**

- You should familiarise yourself with these case study materials before the examination, taking time to consider the themes raised in the materials.
- You should consider the way in which your knowledge and understanding relate to these materials.
- In the examination, you will be presented with a set of questions which will relate to these materials.
- You may discuss these materials with your tutor(s).

**Instructions and information to candidates during the examination**

- You are allowed to take your own clean/unannotated copy of this document into the examination. Alternatively, you can access the electronic version of this document in the examination.
- You are **not** allowed access to any statute books in the examination.
- You must comply with the CILEX Exam Regulations – Online Exams at Accredited Centres/CILEX Exam Regulations – Online Exams with Remote Invigilation.

***Turn over***

## **CASE STUDY MATERIALS**

### **GUIDANCE FOR CANDIDATES STUDYING FOR THE LEVEL 6 UNIT 15 CIVIL LITIGATION EXAMINATIONS**

Candidates studying for Level 6 Unit 15 Civil Litigation are advised that when revising for this unit, they should have knowledge and understanding of the Civil Procedure Rules and of the rules of professional conduct for lawyers issued by the regulatory body for CILEX and by the SRA. Candidates are advised that they should be fully familiar with the relevant current unit specification and may be tested on any aspect of it.

Where Civil Procedure Rules are given in the specification, candidates are expected to be broadly familiar with the content of those rules and associated Practice Directions and their practical application, over and above familiarity with the relevant current specification, including the rules of professional conduct.

Listed below are the Statutes, Standards and Regulations, and Civil Procedure Rules that candidates may find particularly relevant to this examination.

Civil Evidence Act 1968  
Limitation Act 1980  
Senior Courts Act 1981  
County Courts Act 1984  
Insolvency Act 1986  
Tribunals, Courts and Enforcement Act 2007  
Law Reform (Contributory Negligence) Act 1945  
SRA Standards and Regulations  
Civil Procedure Rules and Practice Directions  
Practice Direction – Pre-Action Conduct and Protocols  
Part 1  
Part 3  
Part 6 and PD  
Part 7  
  
Part 13  
Part 16  
Part 21  
Part 22  
  
Part 26  
Part 28  
  
Part 32 and PD  
Part 35  
Part 36  
Part 44  
PD51ZB  
Part 52  
Part 70  
Part 71  
Part 72  
Part 73  
Part 84

## **CASE STUDY MATERIALS**

### **ADVANCE INSTRUCTIONS TO CANDIDATES**

You are a trainee lawyer in the firm of Kempstons LLP ('Kempstons') of The Manor House, Bedford, MK42 7AB. You work in the civil litigation team and your supervising partner is Shirley Parreira. Your local County Court Hearing Centre is in Bedford. You are assisting Shirley Parreira in the following cases.

#### **Case 1 Aileen Forton**

This case concerns a road traffic accident. At present, Shirley Parreira has had an introductory discussion with George Forton, who is the father of the proposed claimant. Details of what was said about the incident is set out as **DOCUMENTS 1 and 2**. Shirley Parreira has undertaken initial identification, conflict of interest and money-laundering checks. You have been asked to review the position and consider what issues arise and what steps are likely to be necessary if Kempstons are to act in this case.

#### **Case 2 Millgrave Ltd/Millicent Graves**

Ms Graves has instructed Kempstons in relation to claims by the company (of which she is the managing director and beneficial owner) for property damage and loss of profit arising out of a fire originating in a tanning cabinet. A summary of her initial instructions forms **DOCUMENT 3**. You have obtained an expert report, extracts from which are reproduced as **DOCUMENT 4**. In compliance with the Practice Direction – Pre Action-Conduct and Protocols, a letter of claim was sent to Kerrison Electronics Ltd and subsequently negotiations took place with solicitors instructed on behalf of their liability insurers. It was, however, not possible to reach agreement on either liability or quantum of the claim. In particular, Kerrison Electronics arranged for the tanning cabinet to be examined by its own expert, who concluded that the reason for the fire was that the tanning cabinet had been modified by overriding switches, which automatically limited the length of a tanning session. This was put to Professor Ashraf, who has stated that there was no evidence of any such interference or modification.

#### **Case 3 Erica Cleaver trading as Newmarket Antique Centre**

This client is pursuing a claim against Norman Franklin, a self-employed joiner and shopfitter. Miss Cleaver employed Mr Franklin to manufacture and install a set of display shelves along one wall of her shop premises. Mr Franklin had been in business in Newmarket for some years and had carried out similar work for other businesses. Miss Cleaver spoke to the owners of these businesses, who all spoke very highly of Mr Franklin.

Miss Cleaver explained to Mr Franklin that she proposed to use these units to display a variety of antiques but principally reasonably large ceramic and glass items, which were collectively of considerable weight. After inspecting the shop and checking the weight of the items currently in stock, Mr Franklin confirmed that the design would be adequate for this.

The contract was entered into verbally on 6 December 2023. The agreed price was £3,150 plus VAT. Mr Franklin fabricated the various units in his workshop and installed them on 22 and 23 January 2024. Initially, Miss Cleaver placed only some low-value items on the unit to see whether they were stable and secure. After a few days she noticed that one end of the unit was not fully stable and called Mr Franklin. He pointed out that the floor was not entirely even and inserted a wooden wedge under the leg of the unit. After this, the unit seemed fully stable and gradually Miss Cleaver started to display more valuable items on it.

Miss Cleaver lives above the shop and during the evening of 19 March 2024 she heard a loud crash from the shop below. She went down to investigate and found that the shelf unit had collapsed. A number of large porcelain and other ceramic items, and a very valuable 17th-century crystal decanter and glasses had been smashed. The shelf unit had also fallen on a large antique doll's house, causing irreparable damage to the roof and interior fittings. The total value of the stock based on the marked sale prices was approximately £18,000, although Miss Cleaver acknowledges that it is common for the actual sale price to be negotiated in many cases.

Miss Cleaver contacted Mr Franklin by phone on 20 March 2024 and explained what had happened. His response was that Miss Cleaver must have overloaded the shelf units, and it was not his fault. Despite further requests to deal with the matter, Mr Franklin did not respond.

The shelf unit has been examined by a local shopfitting company, which advised that although the correct materials had been used, the components of the unit had been glued together using a type of glue that was unsuitable and as a result one or more of the joints failed, causing the unit to collapse. The standard practice in the industry is for the components to be fixed using screws or dowels as well as glue. The company quoted a price of £600 to reassemble the unit using screws and a stronger adhesive, and this has now been done.

## **CASE STUDY MATERIALS**

### **DOCUMENT 1**

I, George Forton, am a construction company manager and live at 28 Laxey Road, Ollerton, Nottinghamshire NG21 4CC with my wife Joyce and our three children, Aileen (date of birth 4th April 2007), Gareth, who is 14, and Catriona who is 11.

On 10th December 2021, my wife took Aileen into Nottingham to go shopping. She used my car as hers was in the garage for service. It is a BMW 3 series saloon, registration FG63 GMN. They were returning, travelling north on the A614 road at about 4.30 pm, when there was an accident. This occurred about 300 m south of the railway bridge, which in turn, is about 500 m south of the junction between the A614 and Station Road, Ollerton. Neither my wife nor Aileen have any recollection of the accident. From what the police told me, another car coming the opposite way decided to overtake a slow-moving vehicle on the approach to a bend without sufficient visibility and as my wife took the bend, she was confronted with this car coming directly at her. She tried to swerve to the left but the oncoming car still caught her a glancing blow, which forced her off the road. The nearside of her car collided with a road sign and this smashed the window. My wife was knocked out briefly and badly shaken but not seriously injured. Aileen, however, was not wearing her seatbelt and was thrown around quite badly. Her face, neck and arms were cut by the broken window glass, and she suffered a fractured cheekbone, a severe whiplash injury and a fractured ankle. She was taken to King's Mill Hospital and detained for four days for observation. She had her ankle in plaster for several weeks. We have been told that the fractured ankle has healed properly, and Aileen has been able to return to her previous sporting- and other physical activities. She had an operation to reposition the cheekbone, and this has been successful. Most of the cuts have healed but she has several scars on her face, neck and arms. These are not at all prominent, although Aileen is very conscious of them and always wears clothes that hide them as much as possible. We have been told that they will become less prominent with time.

Aileen suffered from whiplash symptoms for about 18 months on a regular basis and today still complains of these symptoms occasionally.

I understand that the independent witness, the driver of the van which was overtaken immediately prior to the accident, also gave a statement to the police.

The police subsequently informed us that the other driver involved, Shane Wilkins, had been prosecuted for causing serious injury by dangerous driving, contrary to s 1A Road Traffic Act 1988. He pleaded guilty and was sentenced to 12 months' imprisonment. His vehicle was a Ford Mondeo, registration GP51 SXZ. We were later informed that Shane Wilkins had successfully appealed against his conviction on the grounds that the proper procedures had not been followed in relation to the admission of evidence from a police vehicle examiner. As he had already served several months of the original sentence, the CPS did not seek a retrial.

***Turn over***

**Extract from police accident report.**

There was an independent eyewitness, Eric Clague, DoB 19.1.69, who was driving south on the A614 at the time of the accident. He was travelling relatively slowly, c 40 mph, because his van was fully loaded with plumbing materials. He saw a Ford Mondeo in his rearview mirror approaching at c 70 mph. It overtook him although they were approaching a right-hand bend and a dip in the road, and the witness could not see far enough ahead to see if any vehicle was approaching. The Mondeo passed him but did not pull in immediately. It was about 50–75 yards ahead of him, still mainly on the offside of the road, when he saw it swerve and he also saw there was an oncoming car. The witness braked hard. There was a collision, and the oncoming car went off the road. The Mondeo stayed on the road and came to a halt. The witness went to the other car, which was a BMW. The driver seemed shocked but physically OK. The front-seat passenger was a teenage girl. She was unconscious and had a lot of bad cuts. The witness called 999 on his mobile phone. The accident was quite clearly caused by the driving of the Mondeo driver. He was going far too fast for the road conditions and had stayed on the wrong side of the road when there was limited visibility. The driver of the BMW could not, in the witness' opinion, have done anything to avoid the accident.

The police vehicle examiner confirmed that both vehicles involved in the collision were in good mechanical condition and there were no defects that contributed to the accident. Tyre marks on the road and the position of debris suggested that the collision had taken place on the crown of the road. The BMW had been to the offside of its own carriageway and the Mondeo was initially in the wrong carriageway but started to move to its nearside shortly before the collision.

**DOCUMENT 3**

Millicent Graves will say:

I am aged 49 (date of birth 23 January 1975). I reside at Kenwyn Lodge, Duffield Road, Derby. I am the sole director, and in effect sole owner, of Millgrave Ltd. The company owns 14 Cathedral Street, Derby. The ground floor is a shop fitted out as a beauty salon. The company bought the premises in August 2018, together with the business as a going concern. The two upper floors are converted into two self-contained flats. The first-floor flat was let to a woman named Jane Fielding. The top floor has been vacant. It needed a lot of work doing to the decorative state, which I never got round to.

In the spring of 2022, as the business was starting to recover after the various Covid lockdowns, I decided that I should replace the tanning cabinet, which I had acquired as part of the business. I did some research and eventually decided on the cabinet I considered would be most suitable. It is an upright tanning cabinet, rather like a telephone box but with an array of ultraviolet strip lights that provide the tanning effect. This particular cabinet was manufactured by Kerrison Electronics Ltd, Horseshoe Works, Shoreham Road, Brighton. According to the plate on the cabinet its serial number is SS234566 and the date of manufacture is given as March 2022. The total cost, including installation and VAT, came to £5045.

On 6th April 2024, I decided to treat myself to a session in the tanning cabinet after the salon closed in the evening. Usually, when a customer is using it, I operate the controls. If there is a problem, a light flashes and a siren sounds. I knew from previous experience that although I could not see the flashing light if I was inside the cabinet, I could hear the siren, which is very loud and piercing.

The recommended length of a session is 20 minutes. I entered the cabinet at about 7.00 pm. At about 7.10 pm it seemed to get rather hot, but I was not sure if it was me or the machine, so I did nothing. After another two minutes, however, there was a sudden electrical flash, the ultraviolet lights went out and the cabinet filled with smoke. I opened the cabinet and got out into the salon. The area around the cabinet was well alight. The exterior body of the cabinet is plastic, and this had started to burn. I tried to use my fire extinguisher, but it made no impression. I put a coat on and got out.

I knew Jane Fielding was not at home, as I had seen her drive off a few minutes before 7. She is a nurse at Derby Royal Infirmary, and I knew she was working that evening. I called 999 and the fire brigade arrived quite promptly but by the time they had the fire under control, the whole of the interior of the salon was black. Much of the equipment and contents was actually burned or scorched and the rest was damaged beyond repair by smoke or water. Jane's flat was completely smoke logged and the furniture, which belonged to the company, and all her belongings, were ruined.

I did have liability insurance, which has covered Jane Fielding's claim for her belongings. Jane decided to find somewhere else to live and the flat is still empty, although it was fully repaired and redecorated, and the furniture replaced, by the end of May. The top-floor flat was also completely redecorated.

Unfortunately, I had no other insurance to cover damage to the salon or flats, loss of profits or loss of income from the flat. Happily, I have substantial capital, which is savings from my earlier career as a fashion model, so I have been able to fund the work by making loans to the company.

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## **CASE STUDY MATERIALS**

The total losses are as follows.

Structural repairs and redecoration:

Salon £14,750

First-floor flat £7,000

Second-floor flat £7,000

Furniture and fittings:

Salon £15,875

First-floor flat £4,900

Equipment, stock etc £8,235

Loss of rental income: £175.00 per week, a little over £6000 to date and continuing.

Loss of profits: £13,000. This is based on annual profits of £72,000 for the previous financial year, which equates to £6,000 per month but turnover was up by 10% in the first four months of the current financial year, so my accountant calculates that an extra £500 per month is appropriate.

[Note – you may assume that invoices and other documents justifying these figures have been produced.]

I have also had a letter [not reproduced] from the insurers who settled Jane Fielding's claim in which they ask whether I intend to commence legal action to recover my losses, as they are anxious to recover their outlay.



**DOCUMENT 4**

**Extract from an expert report by Professor Hamid Ashraf of the School of Electrical Engineering, Salford University**

[The report commences by outlining Professor Ashraf's professional qualifications and his experience in the design and technical specification of lighting installations, including ultraviolet light equipment.]

I examined the damaged remains of a Kerrison Electronics Model Tanfast Ultra vertical tanning cabinet, serial SS234566 at Salford University on 26th August 2024. I had available, a copy of the original specification for this model, the user's handbook and the service record, although the latter two items were somewhat damaged by water.

The cabinet had sustained major fire damage, but it was possible to ascertain that the cause of the fire was a short circuit in a voltage convertor forming part of the secondary or reserve circuit of the machine. This secondary circuit had been supplied as a sub-unit by a supplier I note to be Morton Electrotech Ltd. It appears that the voltage convertor was cross wired. This in effect meant that if the secondary circuit was actuated, it operated as a radiant heater, which quickly caused the casing of the cabinet to ignite. The secondary circuit is there as a failsafe if the primary circuit fails. Without it, there is the danger of a potentially dangerous power surge, resulting in a burst of UV rays which can cause serious skin damage.

It appears that the primary circuit failed. As the machine was approximately only two years old, such a failure would not be expected. It would, however, ordinarily have no adverse consequences. In particular, switching to the secondary circuit is not a fault triggering the alarm light and siren but an irregularity that triggers a warning light only. Here, however, the defective nature of the secondary circuit resulted in a sudden and catastrophic failure. It is a simple manufacturing defect.

**End of the case study materials**