

Civil Procedure (Foundation) Assignment Brief

General Guidance

Where a question is in several parts and a words total is indicated, that is the total for the whole question, not for each part of it. Where a word limit is per part of a question, this will be clearly stated. You will not incur penalty for exceeding the word limit by up to 10% but excessively lengthy and prolix scripts will be penalised.

Whilst it is acceptable to use the internet for legal research, this means proper legal research on sites such as Westlaw, Lexis, Bailii, legislation.gov.uk etc; citing Google or Wikipedia and such as authority for any legal proposition is unacceptable.

Paper-based resources will include the materials given to you for this module but you are expected to read more widely and to locate relevant materials beyond the course materials.

Module Guidance

Module Title:	Civil Procedure (Foundation)
Module Code:	Module 2(b)
Assignment Number:	1
Assignment Type:	Memo
Date Set:	17 February 2020
Date Due:	15 March 2020

Module Learning Outcomes

1. Explain the context of civil litigation within the English and Welsh legal system

2. Demonstrate knowledge of the Civil Procedure Rules 1998 and the stages of Civil litigation

3. Explain the circumstances in which it is possible to conclude an action before trial

4. Demonstrate an understanding of the reasons for an interim application

Required Task

Prepare a memo of 1,500 words. You must ensure you meet ALL requirements to achieve a pass on the assessment.

Please Note: All submissions must be made no later than midnight on 15 March 2020. Work MUST be submitted via the online learning environment.

Brief

For full details of the facts and circumstances surrounding this matter, please refer to the case study details of the file of Peter Parker provided within the tutorial pack for this module.

You work as a trainee solicitor in the civil litigation department of Earnshaw LLP (Earnshaws). The firm's address is 1 Thrushcross Grange, The Moors, Wuthering Heights WH1 1WH. As part of your training, you have been working with a partner in the firm, Catherine Earnshaw, on the Peter Parker file (reference CE.PP.0003). Catherine acted on behalf of Peter Parker in

connection with his claim for personal injuries following his involvement in a road traffic accident.

Catherine initially attended upon Peter Parker on 13th October 2019 (see document 1 of the tutorial pack) and he subsequently gave instructions to Catherine to go ahead with the claim. Catherine asked you to undertake the following tasks and you made notes in respect of the same:

- Consider all of the pre-action evidential steps that need to be undertaken on Peter's behalf to ascertain if his claim is viable.
- Consider the pre-action procedural steps that need to be undertaken on Peter's behalf to progress his claim.

The matter continued without a settlement being reached and it was necessary to issue proceedings. Catherine asked you to consider which court the matter should be issued in and why. She also asked you to consider to which track the court is likely to allocate the case to and why.

The claim was issued and subsequently served upon Gwen Stacy. Liability was denied. Peter was worried about how long it could be until the matter would be heard at trial and he gave instructions that he would be content with settling for the sum of £20,000 if the matter could be dealt with quickly and without having to go to trial. At that stage you carried out further research as to the steps that could be taken on behalf of Peter to help persuade Gwen Stacy's insurers to settle her claim. Catherine asked you to include within your consideration the potential financial consequences of the step(s) you proposed taking.

It was at this stage that Catherine considered that it would be beneficial for you to set out all of the research you had carried out so far, including the latest research, in a memo to her to be placed on the file.

Your memo should be 1,500 words in length, **must** refer to the case study of Peter Parker released in the tutorial pack and **must** meet all of the requirements below.

Requirements
You MUST complete all of the following requirements:
Requirement 1: Presentation
<ul style="list-style-type: none"><input checked="" type="checkbox"/> Produce a memo of 1,500 words. The word count must be included on your submission.<input checked="" type="checkbox"/> Your memo must be in the format of the example in the academic handbook and include the completed fields of "To:", "From:", "Date:" and "Re:" (excluded from the prescribed word count).<input checked="" type="checkbox"/> Your memo must include sub-headings of "Pre-action steps", "Issue and Allocation" and "Settlement and Costs" (excluded from the prescribed word count).<input checked="" type="checkbox"/> You may include further sub-headings (excluded from the prescribed word count).<input checked="" type="checkbox"/> Your memo must include references to relevant authority and include appropriate footnotes (footnotes are not counted in your word count).

- ☑ You **must** include a bibliography (excluded from the prescribed word count).
- ☑ You **must** include your student number on your submission.
- ☑ You **must not** include your name anywhere on your submission. Where a name is required this may be included as "A. Trainee" or your student number.
- ☑ Failure to comply with the general presentation requirements will impact upon the presentation mark.

Requirement 2: Pre-action steps

Your memo **must** deal with the following:

- ☑ Set out the pre-action evidential steps that need to be undertaken on Peter's behalf to ascertain if his claim is viable.
- ☑ Set out the pre-action procedural steps that need to be undertaken on Peter's behalf to progress his claim.
- ☑ Consider the relevant law and, in particular, the relevant parts of the Civil Procedure Rules (CPR).

Requirement 3: Issue and allocation

Your memo **must** deal with the following:

- ☑ Which court the matter should be issued in and why.
- ☑ To which track the court is likely to allocate the case to and why.
- ☑ Consider the relevant law and, in particular, the relevant parts of the Civil Procedure Rules (CPR).

Requirement 4: Settlement and costs

Your memo **must** deal with the following:

- ☑ Steps to be taken to bring the claim to a conclusion without going to trial.
- ☑ The potential financial consequences of the step(s) proposed.
- ☑ Consider the relevant law and, in particular, the relevant parts of the Civil Procedure Rules (CPR).

Your work will be marked against the following criteria:

Depth of Knowledge (30%): How well do you show that you know the subject and in what depth and detail.

Application of Theory (30%): How well you can apply the content you have learnt during the course to the brief given.

Critical Analysis (30%): How well you show you have weighed up options, why you have come to the conclusions you have.

Presentation (10%): Your grammar, spelling, punctuation, referencing and following of academic writing criteria at undergraduate level (level 6) and professional level to reflect the standard that is expected by the court, government agencies and your client / office.

Full Marking Scheme: Costs Pleadings Assignment 2020

	Requirement 2: Depth Of Knowledge (30 marks or 30% of overall grade)	Requirement 1: Application Of Theory (30 marks or 30% of overall grade)	Requirement 2: Critical Analysis (30 marks or 30% of overall grade)	Requirement 3: Presentation (10 marks or 10% of overall grade)
Fail	Not making sense and showing little or no knowledge of subject matter. OR Very superficial knowledge of subject matter shown.	No evidence of application of theory to specific requirements of assignment. OR Very little evidence of application of theory to specific requirements of assignment.	No analysis of any value. OR Little real analysis of any value.	Not making sense, very poor use of grammar and spelling OR Some sense but difficult to follow.
Borderline Fail 12+ Marks	Largely superficial but with some areas of depth.	Small amount of evidence of application.	Some analysis with reasonable depth of understanding.	Poor use of grammar and English leads to poor coherence. There will be spelling and grammatical mistakes. Some attempt at structure of memo writing.
Pass 15+ Marks	Good knowledge demonstrated of most of the key areas. Able to show an understanding of how the CPR operates in relation to all of the assignment requirements.	Several good examples of evidence of application provided. Applied knowledge of the CPR to all of the assignment requirements.	Some solid and well founded analysis e.g. outlined pre-action steps to be taken having regard to the information provided.	Good grammar and memo structure. Some good paragraphs and sentence structure. There will be spelling and grammatical mistakes without detracting from overall meaning. Must be set out in accordance with the example memo in the academic handbook (i.e. should include the completed fields) in order to pass academic rigour.
Merit 18+ Marks	Good analysis of knowledge gained to date. For example, will demonstrate	Range of opinions /authority appropriately included and	+ Synthesis of ideas and critical evaluation e.g. make observations about	Good grammar and memo writing skills. Good use of paragraphs, sentence

	<p>good knowledge of the pre-action steps that need to be undertaken and the financial consequences of the proposed step to bring the claim to a conclusion without going to trial.</p> <p>Detailed explanation of the CPR including reference to case authority and other credible secondary sources.</p>	<p>applied well. Evidence of the ability to predict likely outcomes to any proposed next steps. Applied knowledge of the PAPs, CPR PDs and the CPR.</p>	<p>the options available to the client to settle the matter without a trial and the financial consequences of the step(s) proposed.</p> <p>Reach a measured conclusion based on the sources referred to within the submission.</p>	<p>structure, grammar and spelling, but some mistakes without detracting from overall understanding.</p> <p>Good memo writing and good use of language and writing style.</p>
<p>Distinction 21+ Marks</p>	<p>+ Areas of deep knowledge. This may be demonstrated by the observation certain areas are still unsettled and are developing; may also take the form of commentary on the sources included in the submission. Able to show an excellent understanding of how the CPR operates in relation to all of the assignment requirements.</p>	<p>Good range of authority considered with, for example, some evaluation/ justification for likely outcome following the step(s) proposed to bring the matter to a conclusion without a trial.</p>	<p>+ Relevant reflections showing synthesis, learning AND critical evaluation. Demonstrate the ability to synthesise ideas beyond those delivered within the course materials.</p>	<p>Coherent and fluent answer throughout, but may have few very minor grammatical or spelling mistakes which do not detract from the flow of the memo at all.</p> <p>Excellent structure, but some weakness in one area only.</p>
<p>Distinction (Higher) 24+ Marks</p>	<p>++ Excellent range of sources and authority considered. Knowledge gained is critically evaluated. Sources cited are considered.</p> <p>The knowledge demonstrated will identify that the research carried out is fit for purpose.</p>	<p>Excellent range of sources and authority considered with full evaluation / justification for likely outcomes.</p>	<p>+Inspired development of highly original idea(s) and / or the impact of recent/proposed amendments to the CPR or case law.Excellent analysis in respect of all of the assignment requirements.</p>	<p>Coherent throughout and excellent memo writing skills. For a mark of 9 or 10 there must be no spelling or grammatical mistakes.</p>