

## Advocacy and Negotiations 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, Baili, 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

<b>Module Title:</b>	Advocacy and Negotiations
<b>Module Code:</b>	Module 2(d)
<b>Assignment Number:</b>	1
<b>Assignment Type:</b>	Skeleton Argument and Order
<b>Date Set:</b>	27 April 2020
<b>Date Due:</b>	24 May 2020

### Module Learning Outcomes

1. Explain the competency expectations in court etiquette.
2. Demonstrate the ability to undertake advocacy in chambers.
3. Critically discuss the importance and practice of negotiation in the legal sector.
4. Demonstrate competency in basic negotiation skills.

### Required Task

Prepare a Skeleton Argument and Draft Order. There is no word limit for this assignment. 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 24 May 2020. Work MUST be submitted via the online learning environment in one word document.

## Brief

For full details of the facts and circumstances surrounding this matter, please refer to the case study details in the documents at the back of the assignment brief (documents 1-6).

You are a trainee costs lawyer working within a firm dealing with legal costs, Nampara Costs, Nampara, NA1 1NA. As you will see from document 1 within the assignment, Mr Carne's has instructed you to draft a skeleton argument and draft order on his behalf.

## Requirements

You **MUST** complete all of the following requirements:

### Requirement 1: Presentation

- Produce a skeleton argument and draft order. There is no word limit for this assignment but your word count **must** be included on your submission.
- Your skeleton argument and order **must** be in the format of the examples in the module handout.
- Your documents **must** include references to relevant authority and may include appropriate footnotes even though you would not use footnotes in practice (footnotes are not counted in your word count).
- You **must** include a bibliography.
- 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.
- Your final submissions **must** be in word format and be incorporated within one document.
- Failure to comply with the general presentation requirements will impact upon the presentation mark.

### Requirement 2: The Skeleton Argument

Your skeleton argument **must** deal with the following:

- Set out the background to the matter.
- Consider, and include, the relevant law and, in particular, the relevant parts of the Civil Procedure Rules (CPR).
- Consider the authority for assessment.
- Consider the costs and interest in the substantive matter and in the application.

### Requirement 3: Issue and allocation

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

- Consider the relevant law and, in particular, the relevant parts of the Civil Procedure Rules (CPR).
- Consider what should happen next with the assessment proceedings and any timetable.
- Consider the costs and interest in the substantive matter and in the application.

### 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

	Depth Of Knowledge (30 marks or 30% of overall grade)	Application Of Theory (30 marks or 30% of overall grade)	Critical Analysis (30 marks or 30% of overall grade)	Presentation (10 marks or 10% of overall grade)
<b>Fail</b>	<p><b>RQ2</b> Very superficial knowledge of how to prepare a skeleton argument.</p> <p><b>RQ3</b> Very superficial knowledge of how to prepare a draft order.</p>	<p><b>RQ2</b> Very little or no evidence of application of theory to the preparation of the skeleton argument.</p> <p><b>RQ3</b> Very little or no evidence of application of theory to the preparation of the draft order.</p>	<p><b>RQ2</b> Unable to demonstrate the appropriate approach to the skeleton argument. Fails to deal with the key issues provided.</p> <p><b>RQ3</b> Unable to demonstrate the appropriate approach to the draft order. Fails to deal with the key issues provided.</p>	<p>Not making sense, very poor use of grammar and spelling.</p> <p>OR</p> <p>Some sense, but difficult to follow.</p> <p>OR</p> <p>Many typographical and grammatical errors.</p> <p>Does not cover <b>both</b> RQ2 and RQ3.</p>
<b>Borderline Fail 12+ Marks</b>	<p>Largely superficial but with some areas of depth.</p>	<p>Small amount of evidence of application.</p> <p><b>RQ2</b> Student produced work that met the requirement and demonstrated some ability to produce the skeleton argument with some elements of the work being fit for purpose, but unable to demonstrate good application.</p> <p><b>RQ3</b> Student produced work that met the requirement and demonstrated some ability to produce the draft order with some elements of the work being fit for purpose, but</p>	<p>Some analysis with reasonable depth of understanding.</p> <p><b>RQ2</b> Demonstrates some knowledge of what needs to be included in the skeleton argument, but this will be largely superficial, failing to address key issues for example and demonstrating little or no analysis.</p> <p><b>RQ3</b> Demonstrates some knowledge of what needs to be included in the draft order, but this will be largely superficial.</p>	<p>Poor use of grammar and English leads to poor coherence. There will be spelling and grammatical mistakes. Some attempt at structure of drafting both the skeleton argument and order.</p>

		unable to demonstrate good application.		
<b>Pass 15+ Marks</b>	<p><b>RQ2 and 3</b> 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.</p> <p><b>RQ 2.</b> Able to show an adequate understanding of how some parts of the skeleton argument should be completed.</p> <p><b>RQ 3.</b> Demonstrates a reasonable depth of understanding in the parts of the draft order which have been completed.</p>	<p><b>RQ2 and 3</b> Several good examples of evidence of application taking into account the information supplied. Students may make relevant assumptions if considered appropriate. Applied knowledge of the CPR to all of the assignment requirements.</p>	<p><b>RQ2 and 3</b> Some solid and well founded analysis e.g. consider CPR 36 and the consequence of acceptance outside of the relevant period.</p> <p><b>RQ 2</b> Good knowledge demonstrated of most of the key issues to include in the skeleton argument. There will be some attempt at discussing the key points. There may be some identification of appropriate assumptions that may be made, but these may be dealt with only superficially.</p>	<p>Good grammar. 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 examples in the module handout in order to pass academic rigour.</p>
<b>Merit 18+ Marks</b>	<p><b>RQ2 and 3</b> Good analysis of knowledge gained to date. For example, will demonstrate good knowledge of the relevant parts of the CPR that need to be considered and the financial consequences of the offer being accepted outside of the relevant period. Detailed explanation of the CPR which may include reference to case authority and other credible secondary sources.</p>	<p><b>RQ2 and 3</b> Range of opinions /authority appropriately included and applied well. Evidence of the ability to suggest likely outcomes.</p>	<p>+ Synthesis of ideas and critical evaluation e.g. make observations about the procedure and financial consequences.</p> <p>+ Reached a measured solution based on the sources referred to within the submission and the information supplied in the brief.</p>	<p>Good grammar and writing skills. Good use of paragraphs, sentence structure, grammar and spelling, but some mistakes without detracting from overall understanding. Good use of language and writing style.</p>

<b>Distinction 21+ Marks</b>	<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.</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 documents at all. Excellent structure, but some weakness in one area only.</p>
<b>Distinction (Higher) 24+ Marks</b>	<p>++ Excellent range of sources and authority considered. Knowledge gained is critically evaluated. Sources cited are considered. 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 writing skills. For a mark of 9 or 10 there must be no spelling or grammatical mistakes.</p>

DOCUMENT 1



# Carne & Carne Solicitors

Nampara High Street, Nampara NA1 1AN  
Tel: 02789 9876543 Email: info@carneandcarne.co.uk

Nampara Costs,  
Nampara High Street  
Nampara  
NA1 1AN

Our Ref: 123456-1

Your Ref:

20 April 2020

Dear Costs Lawyer,

**Re: HASKIN TOLLIVER MANAGEMENT LIMITED**

I write to request your assistance. I have been acting on behalf of the above named.

The claimant's solicitors, Brown and Brown Solicitors, are a firm in the Legal 500, are APIL accredited and were Colchester firm of the year 2017. They were instructed on behalf of the claimant in August 2015.

Background to Case

Proceedings were issued on 17 December 2017 and a trial was listed to take place on 5 January 2020. However, the claim didn't actually proceed to trial as a negotiated settlement was reached between the parties and the claimant's claim for damages settled in the sum of £25,000. The claim was settled without an admission of liability.

I made a Part 36 offer to settle the whole claim on 20 September 2019. The offer was sent by fax (at 15.34) and also sent by DX. On 21 September 2019 the offer was received by claimant's solicitor by DX.

I did not receive an acceptance of that offer within the relevant period although the claimant solicitors are saying that the offer was accepted within that period. They have not produced a copy of the acceptance. I received an email from the

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Registered Office: Terrance Way, Nampara, NA22 4GT

Company Number: 01330762. VAT registration number: 249 3638 74

claimant solicitors on 12 October 2019 asking if I had received the acceptance and I told them then that I had not.

On the 17 October 2019 I sent the damages cheque to the Claimant which they acknowledged on the 18 October 2019.

On the 17 November 2019 the claimants sent to us a without prejudice schedule of costs. There then followed a period of negotiation but the parties were unable to reach settlement. The schedule of costs was withdrawn. On the 18 January 2020 I faxed the claimant's solicitors and compelled them to commence detailed assessment proceedings by the 25 January 2020 otherwise an application would be made to the court.

On the 23 January 2020 detailed assessment proceedings commenced; the date of the order in the N252 was included as 20 September 2019. On the 8<sup>th</sup> February 2020 I served points of dispute and replies were subsequently served on the 27 February 2020.

In March 2020 I advised the claimant's solicitors that the defendant seeks an order that the claimant agrees to pay the defendant's costs incurred on 12 October 2019 and seeks to limit the claimant's entitlement to interest otherwise an application to strike out the proceedings will be made.

In April 2020 the claimant gave instructions to make an application and the application and witness statement are dated the 12 April 2020. The Notice of Hearing and directions order are dated 26 April 2020.

### The Application

The N244 (Application Notice) states that claimant is seeking an Order for his costs to be assessed in accordance with the draft Order attached to the application. In my view, the claimant is seeking to remedy its own procedural deficiency at the defendant's expense.

### Costs Assessment

It is my understanding that in order for the Court to assess a party's costs there must be an order for costs. Without that authority to assess, the court does not have the power to carry out an assessment, either summary or detailed. In other words, a receiving party cannot validly commence detailed assessment proceedings without an authority to have its costs assessed.

The claimant appears to accept this position by now asking for an order for costs however the claimant also seems to be arguing that the matter settled by way of CPR 36 which contradicts the application. If the claimant was relying on the costs

consequences of acceptance of an offer pursuant to CPR 36 he would be asking for a declaration of that acceptance, not for another order.

My only concern has been to save costs and for the matter not to reach a detailed assessment only for the court to refuse to assess the bill on the basis that there is no authority for assessment.

The fact that I invited formal service of a bill of costs cannot excuse the claimant from proceeding irregularly and not in accordance with the CPR. The claimant is advised by both solicitors and costs lawyers. As this is the claimant's claim for costs, it was incumbent on him (and those advising him) that his claim was pursued properly.

### The hearing

The claimant's application dated 12 April 2020 is listed for a hearing at 11:00 AM on the 22 May 2020. There is a direction for us to file and serve a skeleton argument in response to the claimant's application no later than 7 days before the date of the hearing.

I would be most grateful if you could draft the skeleton argument and also draft an order on my behalf. Ideally the order will cover the costs, interest and the detailed assessment proceedings.

I have enclosed herewith:

1. Notice of Hearing of Application (Document 2)
2. Directions Order (Document 3)
3. Application Notice (Document 4)
4. Witness Statement (Document 5)
5. Claimant's Draft Order (Document 6)

Yours sincerely,

Huw Carne

Enc.

DOCUMENT 2

## Notice of Hearing of Application

<b>In the County Court at Colchester</b>	
<b>Claim Number</b>	COL18ZZ111
<b>Date</b>	26 April 2020

MR EDWARD ARNOLD	Claimant Ref SB/MS1
HASKIN TOLLIVER MANAGEMENT LIMITED	Defendant Ref HC/BBIL1

The hearing of the claimant's application dated 12 April 2020 (see copy attached) will take place at 11:00 AM on the 22 May 2020 with a time estimate of 1 hour at the County Court at Colchester.

DOCUMENT 3

## Directions Order

<b>In the County Court at Colchester</b>	
<b>Claim Number</b>	COL18ZZ111
<b>Date</b>	26 April 2020

MR EDWARD ARNOLD	Claimant Ref SB/MS1
HASKIN TOLLIVER MANAGEMENT LIMITED	Defendant Ref HC/BBIL1

UPON THE HEARING OF THE CLAIMANT'S APPLICATION BEING LISTED FOR 12 APRIL 2020 IT IS ORDERED THAT:

The defendant file and serve its skeleton argument in response to the claimant's application no later than 7 days before the date of the hearing.

## DOCUMENT 4

N244

### Application Notice

For help in completing this form please read the notes for guidance form N244Notes

<b>Name of Court</b> Colchester County Court		<b>Claim no.</b> COL18ZZ111	
<b>Fee account no.</b> (if applicable)		<b>Help with Fees – ref. no.</b> (if applicable)	
		<b>H</b>	<b>W</b>
		<b>F</b>	<b>-</b>
<b>Warrant no.</b> (if applicable)			
<b>Claimant's name</b> (including ref.) Mr Edward Arnold Ref.: SB/MS1			
<b>Defendant's name</b> (including ref.) Haskin Tolliver Management Limited Ref.: HC/BBIL1			
<b>Date</b>		12 April 2020	

1. What is your name or, if you are a legal representative, the name of your firm?

Brown and Brown Solicitors

2. Are you a  Claimant  Defendant  Legal Representative  
 Other (please specify)

If you are a legal representative, whom do you represent?

Claimant

3. What Order are you asking the Court to make, and why?

The Claimant requires an Order for his Costs to be assessed in accordance with the attached draft Order. The Claim was settled following the Claimant's acceptance of the Defendant's Part 36 offer and the Claimant submits that there is a deemed Costs Order. However, the Defendant refuses to accept that fact and objects to the Detailed Assessment proceedings. The Claimant therefore submits that this Application is necessary.

4. Have you attached a draft of the Order you are applying for?  Yes  No
5. How do you want this Application dealt with?  At a Hearing  Without a Hearing  
 At a telephone Hearing
6. How long do you think the Hearing will last?  1 Hours  0 Minutes  
 Is this time estimate agreed by all parties  Yes  No

7. Give details of any fixed trial date or period

N/a

8. What level of Judge does your Hearing need?

District Judge

9. Who should be served with this Application

Defendant

9a. Please give the service address (other than details of the Claimant or Defendant) of any party named in Question 9

Haskin Tolliver Management Limited  
 c/o Mr Huw Carne,  
 Carne & Carne Solicitors,  
 Nampara High Street, Nampara NA1 1AN

10. What information will you be relying on, in support of your application?

- the attached witness statement  
 the statement of case  
 the evidence set out in the box below

If necessary, please continue on a separate sheet

**Statement of Truth**

(I believe)(the applicant believes) that the facts stated in this section (and any continuation sheets) are true

Signed Stephen Brown Dated 12 April 2020  
Applicant('s legal representative)(~~'s litigation friend~~)

Full name Stephen Brown

Name of Applicant's legal representative's firm Brown and Brown, Solicitors

Position or office held Solicitor

(if signing on behalf of a firm or company)

**11. Signature and address details**

Signed Stephen Brown Dated 12 April 2020  
Applicant('s legal representative)(~~'s litigation friend~~)

Full name Stephen Brown

Name of Applicant's legal representative's firm Brown and Brown, Solicitors

Position or office held Solicitor

(if signing on behalf of a firm or company)

Applicant's address to which documents about this application should be sent

Brown and Brown, Solicitors 100 Prison Road, Colchester  Postcode <table border="1"><tr><td>C</td><td>O</td><td>1</td><td>0</td><td>9</td><td>V</td><td>L</td><td></td><td></td></tr></table>	C	O	1	0	9	V	L			If applicable	
	C	O	1	0	9	V	L				
	Phone no.	01011 222333									
	Fax no.	01011 222444									
	DX no.	10000 Colchester									
Ref no.:	SB/MS1										

E- mail address: StephenBrown@Brownlaw.co.uk

**DOCUMENT 5**

Made on behalf of: Claimant  
Witness: Mr Stephen Brown  
Witness Statement No: 1  
Dated: 12 April 2020

IN THE COUNTY COURT AT COLCHESTER

CLAIM NO: COL18ZZ111

BETWEEN:-

MR EDWARD ARNOLD

Claimant

AND

HASKIN TOLLIVER MANAGEMENT LIMITED

Defendant

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**WITNESS STATEMENT OF STEPHEN BROWN**

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I, Stephen Brown, Solicitor at Brown and Brown Solicitors, 100 Prison Road, Colchester COL10 9VL make this statement in support of the claimant's application dated 12 April 2020.

Unless specifically stated, the contents of this statement are within my knowledge and are true. Where matters are not within my knowledge, they are matters which I believe to be true and to the best of my information and belief.

**BACKGROUND AND RELEVANT INFORMATION**

1. I confirm that Brown and Brown Solicitors were instructed to conduct this personal injury claim on behalf of the claimant in August 2015.
2. Proceedings were issued on 17 December 2017 and a trial was listed to take place on 5 January 2020. However, the claim did not proceed to trial as a negotiated settlement was reached between the parties.
3. On 20 September 2019, the defendant put forward a Part 36 offer in the sum of £25,000, open for 21 days. The offer was sent by fax and also sent by DX. The offer was received (and deemed served) on 20 September 2019 by fax and received in the DX on 21 September 2019 (Exhibit "SB1").
4. I wrote to the defendant accepting the offer on behalf of the claimant, or genuinely believe I did so, within the 21-day period. However, a copy of that correspondence cannot be traced.

5. On 12 October 2019, the defendant's solicitor (Mr Huw Carne) emailed me chasing for a response to the offer. I responded by return stating "*I wrote to you confirming that my client accepted your offer. Did you not receive my letter?*" (Exhibit "SB2").
6. Later on the same day, Mr Carne responded by email "*No, I haven't received your communication, but I will notify the court that the offer is accepted and I will request the damages cheque today. Please forward details of your claim for costs as soon as possible.*" (Exhibit "SB3").
7. The defendant's cheque in the sum of £25,000 was received on 18 October 2019.
8. I sent a "without prejudice save as to costs" schedule of costs to Mr Carne by email on 17 November 2019. Negotiations were entered into, but it wasn't possible to reach a settlement. The schedule of costs was withdrawn and I confirmed that detailed assessment proceedings would be commenced.
9. On 18 January 2020, I received a faxed letter of the same date from the defendant's solicitor advising that an application to court would be made if the claimant's bill of costs was not served on or before 25 January 2020 as the claimant was now out of time for commencing detailed assessment proceedings. (Exhibit "SB4").
10. The notice of commencement and bill of costs was sent to the defendant's solicitor by fax and DX on 23 January 2020.
11. The defendant served its points of dispute on 8 February 2020 and I served replies on behalf of the claimant on 27 February 2020.
12. The defendant now seeks an order that the claimant agrees to pay the defendant's costs from 11 October 2019 to 12 October 2019 (1 day) which would, at most, be no more than a few units. Furthermore, the defendant seeks to limit the claimant's entitlement to interest from the date the parties agree any such order. Otherwise, the defendant's representative states that the defendant will be forced to make an application to strike out the current proceedings.
13. I submit that the defendant's stance is entirely unreasonable and obstructive. Unnecessary costs have been caused and the claimant has been left with no choice but to make this application in order to obtain a resolution from the court.

#### **WHY THERE IS A DEEMED COSTS ORDER**

14. It is the claimant's position that the defendant's Part 36 offer dated 20 September 2019 was accepted within the 21-day timeframe and is therefore a deemed costs order enabling the claimant to commence detailed assessment proceedings.
15. In any event, I confirmed to Mr Carne on 12 October 2019 that acceptance of the offer had been sent and he acknowledged the position advising that he would notify the court of the acceptance and that the damages cheque would be requested.

16. In the alternative, it is common ground that the defendant was aware on 12 October 2019 that its offer had been accepted. That was within 21 days of its offer having been served by DX and only one day outside of 21 days from service of the offer by fax.
17. It is significant that the defendant's solicitor did not, at any time, raise any issue with settlement and was content that the claim had been concluded on Part 36 terms with no order being required.
18. Furthermore, the defendant compelled the claimant to commence detailed assessment proceedings, threatening an application if he did not do so. Following this, detailed assessment proceedings were commenced within the stipulated time.
19. Subsequently, the defendant served points of dispute and the claimant served replies.
20. It is only the defendant solicitor's costs team which has raised an issue, several months after settlement of the claim; not the conducting solicitor.
21. Having regard to all of the facts, the defendant should be estopped from retrospectively attempting to pursue the issue.
22. The defendant's conduct is unnecessary, disproportionate and not in accordance with the overriding objective.
23. Notwithstanding the above, the defendant's conduct is surprising because, as costs remain in dispute, it is in the interests of both parties to proceed with the detailed assessment proceedings and have costs assessed. Therefore, the intention of the defendant in taking this stance and the benefits of doing so are brought into question.
24. In any event, the postal rule dictates that an offer is accepted when acceptance is dispatched regardless of whether or not the offeror receives it.
25. Whilst I hold a genuine belief that acceptance was sent, I am unable to produce a copy.
26. Even in the event an acceptance wasn't sent prior to 12 October 2019, it is averred that the defendant is trying to take advantage of the situation and is incurring unreasonable and unnecessary costs in doing so.

## **DEFENDANT'S COSTS**

27. Despite the defendant previously accepting there was a valid Part 36 acceptance and taking no issue with the same, it is noted that the defendant requires its costs of 12 October 2019 (1 day) based on late acceptance. Even if there has been late acceptance, those costs are de minimis and it is disproportionate in the circumstances for the defendant to insist upon the same.

## **INTEREST**

28. It is the claimant's position that one of the key issues is the defendant's attempts to avoid its liability for interest which would ordinarily run from the date of the authority for assessment. As a matter of fact, there has been an agreement in place since at least 12 October 2019 that the defendant would pay the claimant's costs yet the defendant failed to make any payment on account until 24 January 2020 thus depriving the claimant of interest he is entitled to.
29. Pursuant to CPR 44.2(6)(g) the court has the express power, if so required, to order the defendant to pay interest on costs from or until a certain date including a date before judgment. The court's discretion is very wide.

## **CONCLUSION**

30. On any interpretation, a deemed costs order exists as a result of a valid Part 36 offer and acceptance.
31. That was a position endorsed by the defendant up to and after detailed assessment proceedings were commenced. Indeed, the defendant compelled the claimant to commence those proceedings, threatening an application in the alternative.
32. There is no reason for the defendant's attempts to circumvent that other than for the purposes of avoiding its liability for interest.
33. In order to reach a resolution, the court is asked to make an order that the defendant do pay the claimant's costs up to and including 12 October 2019 (the date the defendant accepts it was notified) with interest to run from that date.
34. The claimant also seeks the costs of and incidental to this application.

## **Statement of Truth**

I believe the facts stated in this witness statement are true.

Signed: *Stephen Brown*

Dated: 12 April 2020

Stephen Brown  
Brown and Brown Solicitors  
100 Prison Road  
Colchester  
CO10 9VL

Claimant  
Mr Stephen Brown  
No: 1  
12 April 2020

IN THE COUNTY COURT AT COLCHESTER

CLAIM NO: COL18ZZ111

BETWEEN:-

MR EDWARD ARNOLD

Claimant

AND

HASKIN TOLLIVER MANAGEMENT LIMITED

Defendant

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**EXHIBIT SB1**

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# Carne & Carne Solicitors

Nampara High Street, Nampara NA1 1AN  
Tel: 02789 9876543 Email: info@carneandcarne.co.uk

Our Ref: HC/BBIL1  
Your Ref: SB/MS1

Brown and Brown Solicitors  
DX 10000 Colchester

By fax and DX  
By fax to: 01011 222444

20 September 2019

Dear Sirs,

**Re: EDWARD ARNOLD v HASKIN TOLLIVER MANAGEMENT Limited**

**PART 36 OFFER  
WITHOUT PREJUDICE SAVE AS TO COSTS**

This letter contains an offer by the defendant, made pursuant to Part 36 of the Civil Procedure Rules 1998 to settle the claimant's claim.

**Consequences:**

This offer is intended to have the consequences of section 1 of Part 36.

If the offer is accepted within 21 days of service of this notice ("the relevant period"), the defendant will be liable for the claimant's costs in accordance with CPR 36.13.

If the offer is accepted after the expiry of the relevant period then, pursuant to CPR 36.13(4), unless agreement has been reached between the parties, the issue of costs will be determined by the court. Please note that, in such circumstances, an order will be sought that the claimant pay the defendant's costs incurred after the end of the relevant period.

If the claimant does not accept this offer and fails to do better than this offer at trial, the defendant intends to rely on CPR 36.17. In other words, the defendant will be seeking an order that the claimant pays its costs from the date when the relevant period expires and also interest on those costs.

**What this offer covers:**

The offer is to settle the whole of the claim.

**Benefits:**

This offer is intended to include any relevant deductible benefits for which the defendant is liable under the Social Security (Recovery of Benefits) Act 1997 ("the 1997 Act"). The CRU certificate dated 23 April 2019 expires on 22 October 2019.

The amount of deductible benefits ("the deductible benefits") is £0.

**The offer:**

The gross amount of compensation ("the gross amount") that the defendant offers to pay is £25,000. It includes all interest, deductible benefits and interim payments already made.

For clarity, after deduction of the deductible benefits (nil) and interim payments already made (nil), the defendant will pay £25,000 ("the net amount").

The offer is acceptable only by serving written notice of acceptance in accordance with CPR 36.11.

**Summary:**

In summary, if the claimant accepts the defendant's offer within the relevant period in accordance with the requirements of CPR 36.11, then the defendant will:

1. Pay the net amount of £25,000 to the claimant;
2. Pay the claimant's costs in accordance with CPR 36.13.

The consequences of late acceptance or failure to accept this offer have been set out above.

If, for any reason, you consider this offer to be unclear in any respect, or that it does not comply with the relevant provisions of Part 36, please make your position clear as soon as possible so that we can address the position. If you do not do so, but subsequently submit that the offer is either unclear or does not comply with Part 36, we shall invite the court to treat the offer as if it were clear and compliant.

We look forward to hearing for you in due course.

Yours faithfully,

Carne and Carne Solicitors

Claimant  
Mr Stephen Brown  
No: 1  
12 April 2020

IN THE COUNTY COURT AT COLCHESTER

CLAIM NO: COL18ZZ111

BETWEEN:-

MR EDWARD ARNOLD

Claimant

AND

HASKIN TOLLIVER MANAGEMENT LIMITED

Defendant

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**EXHIBIT SB2**

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Stephen Brown

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From: Stephen Brown  
Sent: 12 October 2019 15.31  
To: 'Huw Carne'  
  
Subject: RE: EDWARD ARNOLD v HASKIN TOLLIVER MANAGEMENT Limited  
(Brown and Brown ref SB/MS1)

Dear Huw,

I wrote to you confirming that my client accepted your offer. Did you not receive my letter?

Kind regards.

Stephen

**Stephen Brown**  
Solicitor

Huw Carne

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From: Huw Carne  
Sent: 12 October 2019 14.23  
To: 'Stephen Brown'  
  
Subject: EDWARD ARNOLD v HASKIN TOLLIVER MANAGEMENT Limited  
(Brown and Brown ref SB/MS1)

Dear Stephen,

Do you have a response to my client's Part 36 offer?

Huw

**Huw Carne**  
Solicitor  
Carne and Carne Solicitors

Claimant  
Mr Stephen Brown  
No: 1  
12 April 2020

IN THE COUNTY COURT AT COLCHESTER

CLAIM NO: COL18ZZ111

BETWEEN:-

MR EDWARD ARNOLD

Claimant

AND

HASKIN TOLLIVER MANAGEMENT LIMITED

Defendant

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**EXHIBIT SB3**

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Huw Carne

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From: Huw Carne  
Sent: 12 October 2019 15.47  
To: 'Stephen Brown'  
  
Subject: RE: RE: EDWARD ARNOLD v HASKIN TOLLIVER MANAGEMENT Limited  
(Brown and Brown ref SB/MS1)

Hi Stephen,

No, I haven't received your communication, but I will notify the court that the offer is accepted and I will request the damages cheque today. Please forward details of your claim for costs as soon as possible.

Regards.

Huw

**Huw Carne**  
Solicitor

Carne and Carne Solicitors

Stephen Brown

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From: Stephen Brown  
Sent: 12 October 2019 15.31  
To: 'Huw Carne'  
  
Subject: RE: EDWARD ARNOLD v HASKIN TOLLIVER MANAGEMENT Limited  
(Brown and Brown ref SB/MS1)

Dear Huw,

I wrote to you confirming that my client accepted your offer. Did you not receive my letter?

Kind regards.

Stephen

**Stephen Brown**  
Solicitor  
BROWN AND BROWN SOLICITORS

From: Huw Carne

Sent: 12 October 2019 14.23

To: 'Stephen Brown'

Subject: EDWARD ARNOLD v HASKIN TOLLIVER MANAGEMENT Limited  
(Brown and Brown ref SB/MS1)

Dear Stephen,

Do you have a response to my client's Part 36 offer?

Regards.

Huw

**Huw Carne**  
Solicitor

Carne and Carne Solicitors

Claimant  
Mr Stephen Brown  
No: 1  
12 April 2020

IN THE COUNTY COURT AT COLCHESTER

CLAIM NO: COL18ZZ111

BETWEEN:-

MR EDWARD ARNOLD

Claimant

AND

HASKIN TOLLIVER MANAGEMENT LIMITED

Defendant

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**EXHIBIT SB4**

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# Carne & Carne Solicitors

Nampara High Street, Nampara NA1 1AN  
Tel: 02789 9876543 Email: info@carneandcarne.co.uk

Our Ref: HC/BBIL1  
Your Ref: SB/MS1

Brown and Brown Solicitors  
DX 10000 Colchester

By fax and DX  
By fax to: 01011 222444

18 January 2020

Dear Sirs,

**Re: EDWARD ARNOLD v HASKIN TOLLIVER MANAGEMENT Limited**

We note you have not yet commenced formal detailed assessment proceedings and are now outside the three-month period for doing so. It is our client's intention to make an application to the court to compel you to commence detailed assessment proceedings should we not receive your bill of costs and notice of commencement on or before 25 January 2020.

We look forward to receiving your bill of costs.

Yours faithfully,

Carne and Carne Solicitors

**DOCUMENT 6**

IN THE COUNTY COURT AT COLCHESTER

CLAIM NO: COL18ZZ111

BETWEEN:-

MR EDWARD ARNOLD

Claimant

AND

HASKIN TOLLIVER MANAGEMENT LIMITED

Defendant

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**DRAFT ORDER**

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UPON reading the claimant's application:

IT IS ORDERED THAT:

1. The defendant do pay the claimant's costs on the standard basis up to and including 12 October 2019 to be assessed if not agreed.
2. Interest on the claimant's costs will run from 12 October 2019.
3. The defendant do pay the claimant's costs of and incidental to this application to be assessed if not agreed.

District Judge

Dated the                      day of                      2020