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The Chartered Institute of Loss Adjusters

Accreditation for Chartered Status

Paper C4 - Liability

October 2015

3½ Hours

Maximum Marks 200

Answer ALL questions

Where appropriate, answers should make reference to relevant case law or statute.

PLEASE ENSURE THAT QUESTION NUMBERS ARE ENTERED CLEARLY AND IN FULL ON THE COVER OF YOUR ANSWER BOOK AND IN YOUR ANSWER BOOK.

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ANSWER ALL QUESTIONS

You have received instructions to deal with liability claims involving public liability and employers' liability for both property damage and personal injury.

The claims relate to a restaurant which is part of a nationwide chain with 54 sites across the UK. The restaurant is open 7 days a week from 07.00 hrs to 23.00 hrs each day, employs 48 members of staff and is overseen by a General Manager who is responsible for all aspects of the business including staff recruitment and training. The General Manager is supported by a head office team.

At 11.00 hrs on Friday 27th August, Andy, a 16 year old college student, attended the restaurant to commence his first shift as a trainee waiter as part of an unpaid four shift trial. The unpaid trial is part of the restaurant's recruitment policy.

Andy was particularly high spirited that day, being excited about the opportunity to earn his own money. He had also received confirmation the day before that he had been accepted to play rugby for the development squad of a national rugby team.

During the trial period, Andy was required to complete mandatory on-line skills training including health & safety, customer service and food hygiene. Failure to successfully complete the mandatory training would bar Andy from being awarded an employment contract.

On his first day, Andy met his mentor, Cameron, a team leader, who showed him around the premises, provided Andy with his log-in for the on-line training and suggested that Andy "got stuck in" and started to assist with the service.

Andy was delighted to have the opportunity and worked alongside Cameron, acting under his direct instruction setting tables and carrying food to customers.

After 2 hours, the restaurant became unexpectedly busy as a result of the closure of a nearby railway station due to a sudden downpour and flash flood. Andy was asked by James, the team leader of an adjacent section, to focus on taking drinks to customers.

During this time, the tiled floor of the restaurant became wet from saturated customers entering the restaurant. Whilst the General Manager had asked a kitchen porter to ensure additional mats were placed in the entrance area and the floor regularly mopped, these instructions were ignored.

At 13.30 hrs, Andy was carrying a tray of hot drinks to a table at the front of the restaurant when he slipped on the wet floor and fell heavily, fracturing his shoulder.

Unfortunately, a customer who was sitting nearby (Karen, a Human Resources Consultant) suffered burns to her face and arm, caused by the spillage of the hot drinks.



Claims were made against the restaurant as follows:

Andy: Shock, injury, loss of earnings and damage to clothing and a mobile phone

Karen: Shock, injury, loss of earnings and damage to clothing, a brief case and an iPad. In addition, Karen has claimed for loss of business as a result of the loss of data stored on the iPad.

The policy provides Public Liability cover with a limit of indemnity of £5,000,000 and Employers Liability cover with a limit of indemnity of £10,000,000.

QUESTION 1

Outline all the enquiries you should undertake to establish:

- I. Whether the policy should operate to indemnify the Policyholder
- II. Reserve.

You should include all the information that you would require to establish the above, together with the sources of the information. You are **NOT** required to detail your conclusions on Policy liability or to set a reserve.

50 MARKS

QUESTION 2

- I. The Policyholder asks you to provide them with an email explaining the shortcomings in their practices that have come to light as a consequence of your investigation. Whilst this is outside your normal remit, you are encouraged to assist by the broker and you agree. Draft your email to the Policyholder detailing any issues that you feel are relevant to their potential legal liability.
- II. The Policyholder's Insurance Broker requests that you write to him explaining how the claim might be handled. Prepare a suitable letter to the Broker explaining the claim procedure (including any steps that are required to comply with the Civil Procedure Rules), what actions you will be taking to establish whether a legal liability exists and how your decision will be communicated to the claimant. The letter should also include what action will be required of the policyholder.

50 MARKS



QUESTION 3

Set out the following two sections of a Preliminary Report to Insurers:

- I. “Outstanding Actions”, in which you detail the further inquiries that you still need to make and also any information that you are awaiting from the Policyholders
- II. “Policy Liability”, covering both your initial views on Policy cover and any further information required from any of the parties, including the Insurers.

50 MARKS

QUESTION 4

The Policyholder’s head office team ask you to advise them on the cover provided under Public Liability and Employers’ Liability. In particular, they ask for your views regarding possible issues that may arise where there is no contract of employment.

Prepare a letter to the Policyholder advising them on these points and including your rationale for the views expressed.

50 MARKS