

CIVIL LITIGATION PRACTICE PRACTICAL GUIDE



LAWSKOOL.COM.AU

LAWSKOOL PTY LTD

TABLE OF CONTENTS

1. HOW TO USE THIS PRACTICAL GUIDE	3
PART 1: INTERLOCUTORY APPLICATION.....	4
2. FILE NOTE OF INTERVIEW, RESEARCH AND FURTHER ADVICE	4
3. LETTER OF ADVICE	10
4. ACTION TO BE TAKEN.....	14
5. FILE NOTE OF HEARING ON APPLICATION FOR SUMMARY JUDGMENT	17
6. FINAL LETTER TO CLIENT	19
8. LETTER OF ADVICE	32
9. LETTER TO CLIENT REGARDING PLAINTIFF'S COMPLAINT.....	35
10. CLIENT'S COUNTERCLAIM	42
11. FILE NOTE: SETTLEMENT	47
12. LETTER TO CLIENT: ADVICE REGARDING SETTLEMENT	50
13. FINAL LETTER TO CLIENT: OUTLINING SETTLEMENT	51
14. ORAL ASSESSMENT TIPS.....	54

1. HOW TO USE THIS PRACTICAL GUIDE

This practical guide has been developed for your assistance in the College of Law unit Civil Litigation Practical Guide. This guide is structured in a way that aims to equip you with the problem solving skills to help to resolve disputes between parties, which generally requires the following:

- a. knowledge and understanding of the law, rules, practice and procedure of relevant courts and tribunals;
- b. alternative methods of dispute resolution; and
- c. skills to use methods to resolve disputes in the most appropriate way to achieve the best possible outcomes for clients.

The types of assessment in the College of Law elective unit currently involve an oral assessment of areas including the following:

- a. reflecting on your learning;
- b. reviewing the tasks you have submitted; and
- c. answering questions from the learning materials.

This practical guide is structured in a way that simulates this type of assessment. Lawskool Pty Ltd recommends that you follow this practical guide in the order as it appears, and work through the fact scenarios to each practical task in a way that ensures you understand the steps taken along the way. The tasks in this practical guide are presented as examples of the types of tasks in Civil Litigation Practice in the College of Law, culminating in the oral assessment with oral assessment tips at the end of this guide.

Throughout your studies, you may adopt an engaged learning style which enables you to actively explore ideas and issues about a topic, and connect with your peers and mentors about real life situations and how they apply to the topic. Lawskool Pty Ltd hopes that you may use this practical guide as a tool in your engagement with Civil Litigation Practice in the College of Law.

PART 1: INTERLOCUTORY APPLICATION

2. FILE NOTE OF INTERVIEW, RESEARCH AND FURTHER ADVICE

Names: Adam Johnson attendance with Samuel Griffith

Date: 20 April 2015

Time Spent: 10 units (60 minutes)

Client Details: Samuel Griffiths

Name of Matter: Samuel Griffiths – Advice regarding claim against Educational Productions Pty Ltd

Instructions from client:

1. I have been provided with a letter from a new client, client authority and a memo from myr Senior Partner regarding a Samuel Griffith who is dissatisfied with the way another law firm is handling his case.
2. Another solicitor has been acting on his behalf and the Samuel Griffith wants me to take over the conduct of the file.
3. Samuel Griffith informs me that he was engaged by Educational Productions Pty Ltd (“the Company”) from mid-2009 until 28 July 2014 as a camera operator and production manager of the film unit. During the course of employment he commenced work on a creative writing book whereby the Company agreed to pay him 35% of the net profits from the venture.

4. Further, during the course of his employment he accrued employment entitlements to the value of \$22,533.00.
5. Upon termination of his employment the Company has failed to pay him the agreed commission and the employment entitlements accrued.
6. The Company has paid him a total of \$3,046.45 with the balance owed being \$103,488.55.
7. I need to Review the file.
8. Once I have reviewed the file I will act as his solicitor in a County Court action to recover the money.

Issues:

(i) Legal

1. Whether Educational Productions Pty Ltd has breached its employment contract with Samuel Griffith and as such whether Samuel Griffith can recover employment entitlements to the value of \$22,533.00.
2. Whether Educational Productions Pty Ltd has breached its contract with Samuel Griffith and as such whether Samuel Griffith can recover the promised 35% of the net profits from the creative writing book Samuel Griffith created for the company with an outstanding amount of \$103,488.55 yet to be paid.

(ii) Non Legal

1. Dissatisfaction with previous Solicitor.
2. Need to ensure Samuel Griffith's satisfaction and to achieve the best possible outcomes for him using the most appropriate dispute resolution mechanism(s) available.



To order the complete version of the Lawskool Civil Litigation Practice – Practical Guide please visit www.lawskool.com.au