

Logbook

Name: [Redacted]

Membership No: [Redacted]

1. Competency:

Communication Skills

Learning Outcome:

2.3 Address all issues in communication

2. Evidence provided:

Letter of instruction to expert.

3. Outline how the evidence demonstrates you meet the outcome:

- This is a formal letter of instruction to a single joint expert pursuant to Part 35 of the Civil Procedure Rules. The letter was drafted by me for approval by the other side. The letter was approved and sent to the single joint expert on 2 February 2015.
- The letter set out the background to the matter and also the issues to be dealt with by the expert. The letter also sets out the requirements for the format of the report under CPR Part 35.
- The letter identifies and addresses all of the required information.

4. Reflection and evaluation (what you learnt from the activity you undertook to meet the outcome):

I learnt that it is vital to consider your client's requirements when instructing an expert and fully set out the requirements in the letter of instructions so that the expert is clear as to what is required.

5. Completion date:

2 February 2015

6. Signed (applicant)

[Redacted Signature]

Date:

2/2/15

7. Signed (supervisor)

[Redacted Signature]

Date:

2/2/15

[REDACTED]
2 February 2015

Mr S
[REDACTED]

Dear Sir

[REDACTED] and [REDACTED] -v- [REDACTED] and [REDACTED]
Claim Number: [REDACTED]

Thank you for agreeing to act as an expert in this matter. This letter is a joint instruction to you, in the claim issued by Mr and Mrs [REDACTED] against Mr and Mrs [REDACTED], currently before the [REDACTED] County Court. Mr and Mrs [REDACTED] have a counterclaim against Mr and Mrs [REDACTED].

The parties

[REDACTED] LLP, [REDACTED] acts for the Claimants / Part 20 Defendants, Mr [REDACTED] Mrs [REDACTED]. She can be contacted on [REDACTED] and at [REDACTED]

[REDACTED] LLP, [REDACTED] acts for the Defendants / Part 20 Claimants, Mr and Mrs [REDACTED]. She can be contacted on [REDACTED] and at [REDACTED]

Your instructions

At a Case Management Conference on 23 December 2014, District Judge [REDACTED] ordered that a single jointly instructed expert is to be appointed to report to the court. A copy of the Court Order dated 2 January 2015 is enclosed which set out the dates for compliance.

You will see from the order that the report is to be prepared by 6 March 2015. Once you have reviewed this letter and its enclosures, please confirm whether you accept these instructions.

Your instructions are to consider the documentation enclosed with this letter and decide whether a site visit is necessary. If a site visit is necessary, you are instructed to make arrangements with the parties' solicitors (who will liaise with their clients as to a convenient date). You are then instructed to prepare a CPR compliant report dealing with the issues set out below.

Documents

We enclose the following documents for you to prepare your report:

1. Claim Form issued on 30 June 2014;
2. Defence and Counterclaim dated 29 July 2014;
3. Reply to Defence and Defence to Counterclaim dated 9 September 2014;
4. Report of [REDACTED] dated 22 June 2014; and
5. Photographs and video.

We will provide you with a copy of any new document filed at court that is relevant to you.

Issues

These instructions relate to a tree as pictured in the enclosed photographs (the "Tree"). The Tree has been removed and so is not available to inspect; however, the Tree stump remains in situ and the Claimants are in possession of a branch of the Tree which fell in December 2013.

1. Please confirm the species and approximate age of the Tree;
2. Please comment upon the photographs which show the deterioration of the Tree and what may have caused the deterioration;
3. Please comment upon the likely effect that copper nails in the Tree roots would have upon the health and appearance of the Tree;
4. In your opinion, could increased copper levels have been harmful to the Tree?
5. If your answer to Question 4 is yes, how many copper nails in the roots would it take to kill the Tree or harm it irreparably, taking into consideration the species, age and size of the Tree, and assuming that the Tree was otherwise in good health?
6. If your answer to Question 4 is yes, how long would it take for copper nails in the roots to kill the Tree or harm it irreparably, taking into consideration the species, age and size of the Tree, and assuming that the Tree was otherwise in good health? Please provide an estimated timeframe for each of the following quantities of copper nails: 2 nails, 4 nails, 6 nails, 10 nails;
7. The stump of the Tree is still in place. Are there any tests that you can carry out on the stump which would indicate the cause of the Tree's decline and/or whether there exists abnormal levels of copper or any other poison? If so, please carry these out.
8. The Claimants are in possession of a branch of the Tree which fell in December 2013. Are there any tests that you can carry out on the branch which would indicate the cause of the Tree's decline and/or whether there exists abnormal levels of copper? If so, please carry these out.
9. Please attend a site visit and confirm whether there are nails in the roots of the Tree. If so, please state:
 - a. how many nails are present;
 - b. what the nails are made from (and explain the test used for this);
 - c. how long you would estimate that the nails had been in place, having consideration to the condition of the Tree and the age, colour and general appearance of the nails.
10. If at the time of your inspection there are no nails in the roots of the Tree, please confirm whether there is any evidence / indication that nails have previously been situated in the roots and subsequently removed.
11. Do the photographs of the Tree show damage which would be consistent or inconsistent with increased levels of copper?
12. Looking at the enclosed photographs of the Tree, and considering the results of any tests that you may have carried out in response to Questions 7 and 8, what do you consider caused the deterioration of the Tree? Is it possible that any other poison could have been added to the roots of the Tree?
13. Is it possible that the Tree could have deteriorated as a result of causes other than increase levels of copper or any other poison (such as parasites or fungus)? Please also provide your answer in percentage terms;
14. Does it appear from the evidence before you that it was necessary to remove the Tree, or was there a possibility that the Tree would have recovered?

Format of the report

As you have acted as a court expert previously, we presume that you are familiar with your duties under Part 35 Civil Procedure Rules 1998 and the accompanying Practice Direction. However, if you have any doubt as to what is required – or your instructions or your duties under Part 35 - please ask them not to hesitate to ask us.

In summary, your report should:

- 71
- outline the substance of all material instructions;
 - contain a statement that you understand your duty to the court;
 - confirm that the facts and opinions stated in the report are true;
 - detail your qualifications and experience;
 - summarise your conclusions and opinions;
 - confirm that you have no conflict of interest, otherwise than as disclosed in the report.

Please send copies of the report to each firm of solicitors at the addresses specified above.

As this is a joint instruction, please send copies of all correspondence to each firm of solicitors. Please ensure that both parties or their advisers are present for any discussions and that all communications are recorded.

If required, you may apply to the court for directions to assist you carrying out your instructions.

Fees

In the first instance, each party will be responsible for half of your reasonable costs incurred in preparing your report.

Each party will also be responsible in the first instance for half of your reasonable costs incurred in answering questions on your report.

Next steps

If you accept these instructions, please let both firms of solicitors know:

- that you have had no prior dealings with either party which could cause a conflict of interest;
- when you anticipate completing your report, and if you envisage any difficulty with the court timetable;
- before you start work, the likely costs of providing your report including VAT and disbursements, so that your costs may be approved in advance; and
- whether you require any further information or documents, and if so, a list of the relevant material.

If this matter is not resolved, it is possible that you may be required to give evidence to the court. We will confirm whether this is the case in due course.

We look forward to hearing from you.

Yours faithfully

[Redacted]
Name: [Redacted]

.....
[Redacted] LLP

For and on behalf of the Defendants / Part 20 Claimants

.....
[Redacted] LLP

For and on behalf of the Claimants / Part 20 Defendants