

Award in Civil Procedure

Lecture 3: Drafting of Judicial Acts

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**Diploma in Law
(Malta)**

Revision: What are Judicial Acts?

A judicial act is the generic term used to describe all documents which are filed through the courts, including:

1. Judicial letters and judicial protests
2. Applications and sworn applications
3. Replies and sworn replies
4. Notes
5. Warrants
6. Schedules of deposit



Case 1

ABC Ltd is the owner of a furniture store that sold a kitchen to Patrick Bugeja for €30,000. Patrick paid a deposit of €4000. The kitchen was ordered and installed by ABC Ltd. Patrick has not paid the pending balance. ABC Ltd come to you for legal advice.

Discussion:

- a) What remedies to ABC Ltd have?
- b) What type of official letter can be presented?
- c) What type of case can be opened in Court?



Case 1

Draft a 166A Letter



Case 1

Additional Discussion Points

What advantages does a judicial letter offer compared to immediately filing a case?

Could ABC Ltd have included a reservation of ownership clause in the sale? What effect would that have?

Should ABC Ltd consider requesting a precautionary garnishee order? Why or why not?



Case 2

Kris is the owner of the roof and air space of the block of apartments named 'Tal-Ħadid' in Triq it-Tuffieħ, Qawra and he wants to develop the airspace. Sarah, the owner of one of the apartments in the block, is alleging that she is the part owner of some of the roof and the airspace and is threatening to take legal action against Kris if he goes forward with the development plans.

Discussion:

- a) What legal remedies are available to Kris?
- b) What type of judicial act can be presented to the court?
- c) What kind of case can be opened in Court?



Case 2

- Draft a judicial protest



Case 3

Gianni is a contractor who has been hired by Fred to build a block of apartments in Birkirkara. Gianni finished his work and sent a bill to Fred requesting the amount of €100,000. Gianni sent an official letter to Fred and he replied saying that he won't be paying as the work was done badly and he had to get someone else to fix the bad workmanship.

Discussion:

- a) What remedies are available to Gianni?
- b) What type of case can be opened? Why?
- c) What remedies does Fred have when he's notified of the case?



Case 3

- Draft a sworn application for Gianni
- Draft a sworn reply and a counterclaim for Fredu





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CAMILLERI PREZIOSI
ADVOCATES

Case 4

123 Architects Limited is an architecture firm that provided professional services to Mary Galea in relation to the construction and design of her Madliena home. 123 Architects sent an invoice for services in the amount of €17,000. Mary is refusing to pay as she is claiming that she already paid for services rendered.

Discussion:

- a) What remedies does the architecture firm have? What kind of official letter can be used in this case?
- b) What remedy does Mary have once she's notified?



Case 4

- Draft an official letter 166A
- Draft a note opposing the 166A letter received



Case 5

On the 20th December 2021, Maria Borg was run over by a vehicle driven by Joe Grech, whilst she was crossing the Imriehel Bypass. As a result of this incident, Maria suffered permanent disability. She took legal action against Joe and opened a case. On the 31st January 2023 the Courts handed down a sentence finding Joe solely responsible for the incident and ordered that he pay Maria the amount of €400,000.

Joe did not agree with the decision of the Court as he believes that:

1. The court of first instance didn't take into consideration the clear evidence that Maria crossed the bypass without looking both ways and without using the pedestrian crossing (traffic lights) that were slightly further down.
2. The compensation was calculated on 20% disability without taking into consideration the fact that Maria already had 7% disability that had nothing to do with this accident.

Discussions - What remedies does Joe have?



Case 5 Contd.

Maria received the appeal and does not agree with what it contains. She claims that she did look both ways before crossing, and that the traffic lights were not working at that time. She agrees with the decision of the courts that Joe is responsible because he was driving at excessive speed.

Discussion – what remedies does Maria have?



Case 5

- Draft an application for appeal for Joe
- Draft a reply to Joe's appeal for Maria





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