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ACCG8077 Forensic Accountants and the Courts

Assessment 3

Case Study

Learning Objectives

- Analyse and interpret the rules of evidence and the role of the forensic accountant as an expert witness, including their professional/ethical responsibility and legal liability
- Identify and review the core procedural and substantive aspects of civil and criminal litigation processes including discovery and subpoenas and understand the relevance of procedure and evidence to judicial decision-making.
- Evaluate legal processes of resolution of claims including alternate dispute resolution and analyse the role of the forensic accountant in legal support services.



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ASSESSMENT 3: QUESTION



Case Study

Stacey is a 42-year-old victim of a hit and run accident in NSW, which resulted in physical injuries (hospitalisation for 6 weeks), loss of employment and the complete destruction of her vehicle. Stacy intends to sue the driver of the other car for medical costs, income loss and the value of her car, totalling \$97,000.

Although there were no eyewitnesses to the accident, Stacey managed to accurately note the other vehicle's plate number (ABC 123) and seeks assistance from the NSW Police. The NSW Police tell her the vehicle is registered in the name of Sampath Pty Ltd acting as trustee for the Sampath Family Trust.



Case Study

Stacey intends to represent herself and seeks preliminary discovery of documents to enable proceedings to be commenced—namely the contract of sale for the vehicle with plate number ABC 123, the insurance policies for the vehicle, the insurance claims processed for the vehicle, the details of all drivers who had driven the car in the last 3 months, the logbook for the vehicle, details of where the vehicle is usually parked, details of all trips undertaken using the vehicle in the last 3 months, a copy of the vehicle's dash-cam recordings for the last 3 months, and details of all other vehicles (make, model and purchase price) owned by the Sampath Family Trust.

Case Study

Stacey writes a letter dated 22nd February 2020, requesting the production of the aforementioned documents and sends the request to 321 Waterloo Road, Sydney NSW 2001 the registered address (as per ASIC's records) of the Sampath Family Trust. Stacey also includes in her letter she may also be seeking criminal charges.

As Stacey is waiting to receive a response, she hires a forensic accountant to assess her medical costs and income loss. Stacey instructs the forensic accountant to prepare a table that shows the total of all her medical invoices (7 in total). Stacey also instructs the forensic accountant to prove she has no income following the accident as clearly shown in the lack of credits in her bank statements.



Case Study

Stacey has received a response from Sampath Family Trust that it wishes to settle this matter through alternative dispute resolution (ADR). The response claims that Stacey was partially at fault and that Sampath Family Trust should not be fully liable for all damages.

Throughout this period, Stacey has had discussions with her forensic accountant, including:

- (1) 3rd March 2020—initial consultation with the forensic accountant to discuss the scope and issues to be included in the expert witness statement. Forensic accountant writes notes about the facts of the case and prepares an engagement letter for Stacey to sign.
- (2) 12th March 2020—the forensic accountant prepares work papers in excel in preparation of writing an expert witness statement



Case Study

(3) 13th March 2020—Stacey calls the forensic accountant to inform them she found an additional medical invoice. The forensic accountant writes on a piece of paper “client call, omitted a medical receipt, need to scan and include in file and update WIP”.

(4) 17th March 2020—the forensic accountant sends Stacey an email discussing the fluctuations in her wage salaries in the months preceding the accident.

(5) 19th March 2020—the forensic accountant sends Stacey an email with their draft expert statement for review and feedback out of courtesy.

(6) 21st March 2020—Stacey calls the forensic accountant to discuss the possibility of ADR. The forensic accountant writes down notes summarising the nature of the call and their initial views of the change in direction from litigation to ADR.



Case Study

Required (40 marks):

1. Identify and explain five legal issues with Stacey's letter requesting preliminary discovery of documents (addressing both the format and contents) **(10 marks)**
2. Identify and explain three issues with the scope of work Stacey has requested from the forensic accountant **(6 marks)**
3. Identify and explain the type of forensic accounting services the forensic accountant is providing Stacey **(2 marks)**
4. Explain the steps between a police complaint and the laying of criminal charges **(2 marks)**
5. Which type of Alternative Dispute Resolution would you recommend Stacey to pursue to try and resolve her issue? In providing your response, explain the suitability of your chosen method, how the process works and highlight any deficiencies in the process. **(8 marks)**
6. Assuming the ADR process was not successful, for each of the six dates above, identify the document created and/or sent and explain which documents will and will not be classified as privileged. **(12 marks)**



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ASSESSMENT 3: MARKING RUBRIC

Marking Rubric



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Criteria (40 MARKS TOTAL)	Fail	Pass	Credit	Distinction	High Distinction
Analyse and interpret the role of the forensic accountant as an expert witness. (8 marks)	Little or no evidence of understanding the role of the forensic accountant as an expert witness.	Some evidence of understanding the role of the forensic accountant as an expert witness.	Evidence of substantial understanding the role of the forensic accountant as an expert witness.	Strong and clear evidence of understanding the role of the forensic accountant as an expert witness.	Comprehensive and high-level critical evidence of understanding the role of the forensic accountant as an expert witness.
Identify and review the core procedural and substantive aspects of civil and criminal litigation processes including discovery and subpoenas. (24 marks)	Little or no evidence of understanding the core procedural and substantive aspects of civil and criminal litigation processes including discovery and subpoenas.	Some evidence of understanding the core procedural and substantive aspects of civil and criminal litigation processes including discovery and subpoenas.	Evidence of substantial understanding the core procedural and substantive aspects of civil and criminal litigation processes including discovery and subpoenas.	Strong and clear evidence of understanding the core procedural and substantive aspects of civil and criminal litigation processes including discovery and subpoenas.	Comprehensive and high-level critical evidence of understanding the core procedural and substantive aspects of civil and criminal litigation processes including discovery and subpoenas.
Evaluate legal processes of resolution of claims including alternate dispute resolution. (8 marks)	Little or no evidence of understanding the legal processes of resolution of claims including alternate dispute resolution.	Some evidence of understanding the legal processes of resolution of claims including alternate dispute resolution.	Evidence of substantial understanding the legal processes of resolution of claims including alternate dispute resolution.	Strong and clear evidence of understanding the legal processes of resolution of claims including alternate dispute resolution.	Comprehensive and high-level critical evidence of understanding the legal processes of resolution of claims including alternate dispute resolution.
Clear, ordered, precise and appropriately referenced.	Little or no appropriate referencing. Language is frequently too informal for academic purposes. Errors in grammar make overall meaning unclear.	Predominantly appropriate use of referencing. Language is occasionally informal. Errors in grammar make meaning unclear in places.	Appropriate use of referencing. Language is generally appropriate for an academic assignment, with only occasional minor errors in grammar, spelling or presentation.	Accurate use of referencing. Writing style and presentation are of a high academic standard.	Accurate use of referencing. Writing style is exemplary and compelling, and is of a publishable academic standard.