



# ACCG891

## Forensic Accountants and the Courts

S1 Evening 2019

*Dept of Accounting & Corporate Governance*

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## General Information

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Credit points

4

Prerequisites

Admission to GradDipForAccg or MCom

Corequisites

Co-badged status

### Unit description

This unit examines the role of the forensic accountant in the courtroom, as an expert witness and/or consultant in a case. Legal jurisdictions and the core procedural issues and principles that guide the forensic accountant in the criminal and civil court system are covered. Students will appreciate the defined steps, roles and responsibilities of the forensic accountant that assist discovery, identification, collection, analysis and management of evidence in various contexts. Evidentiary courtroom rules and principles will be addressed as well as the professional/ethical standards of competency, confidentiality and objectivity and the legal liability of a forensic accountant in their role as an expert witness. The legal processes, principles and techniques of alternative dispute resolution in the settlement or determination of a dispute are also considered

## Important Academic Dates

Information about important academic dates including deadlines for withdrawing from units are available at <https://www.mq.edu.au/study/calendar-of-dates>

## Learning Outcomes

On successful completion of this unit, you will be able to:

Recognise and comprehend the legal jurisdiction, procedural issues and principles that guide the role of the forensic accountant in the court system.

Understand the core procedural aspects of the litigation process and the position of the forensic accountant, both in the commencement/termination of civil litigation and the obligation to protect interests of parties.

Identify and interpret the rules of evidence and explain the role of the forensic accountant as an expert witness, including their professional/ethical responsibility and legal liability.

Understand legal processes of resolution of claims including Alternative Dispute Resolution and analyse the professional and ethical responsibilities of the forensic accountant in their collective roles in litigation support services.

## Assessment Tasks

Name	Weighting	Hurdle	Due
<a href="#">Participation</a>	30%	No	Week 1,3,9,12,13
<a href="#">Reflective Review</a>	40%	No	5pm Sunday 5th May 2019
<a href="#">Final Case Study Assessment</a>	30%	No	5pm Sunday 9th June 2019

## Participation

Due: **Week 1,3,9,12,13**

Weighting: **30%**

Participation involves attendance at the on-campus sessions and exhibiting evidence of preparation for, involvement in, and contribution to, discussion, activities, and other required input.

On-campus sessions: 2 March 2019; 16 March 2019; 11 May 2019; 1 June 2019; 8 June 2019

On successful completion you will be able to:

- Recognise and comprehend the legal jurisdiction, procedural issues and principles that guide the role of the forensic accountant in the court system.
- Understand the core procedural aspects of the litigation process and the position of the forensic accountant, both in the commencement/termination of civil litigation and the obligation to protect interests of parties.
- Identify and interpret the rules of evidence and explain the role of the forensic accountant as an expert witness, including their professional/ethical responsibility and legal liability.
- Understand legal processes of resolution of claims including Alternative Dispute Resolution and analyse the professional and ethical responsibilities of the forensic accountant in their collective roles in litigation support services.

## Reflective Review

Due: **5pm Sunday 5th May 2019**

Weighting: **40%**

### Reflective Review Assessment

#### Topic/Requirement

#### Due date/deadline

#### Part 1:

#### Observation of a case in the District Court

You are required to attend and observe District Court proceedings (criminal or civil) in your jurisdiction. You should allow at least 1-2 hours of observation.

Preferably by Week 7 (week commencing 8.4.19) but at the latest in due time to meet the due date for Part 2 of this assessment.

#### Part 2:

## Reflective Critique

**This assessment** (word limit 1,200) requires you to reflect on your observations in the District Court and:

Evaluate usefulness and content of the District Court proceedings;

Identify your perceptions and understanding of the legal framework surrounding the proceedings;

Reflect on court etiquette and relationships within the courtroom setting.

This assessment must be **submitted via iLearn/Turnitin no later than 5 pm on Sunday 5 May 2019**

No extensions will be granted. Late tasks will be accepted up to 48 hours after the submission deadline. There will be a deduction of 10% of the total available marks made from the total awarded mark for each 24 hour period or part thereof that the submission is late (for example, 25 hours late in submission – 20% penalty). This penalty does not apply for cases in which a **Special Consideration application** is made and **approved**.

On successful completion you will be able to:

- Recognise and comprehend the legal jurisdiction, procedural issues and principles that guide the role of the forensic accountant in the court system.
- Understand the core procedural aspects of the litigation process and the position of the forensic accountant, both in the commencement/termination of civil litigation and the obligation to protect interests of parties.
- Understand legal processes of resolution of claims including Alternative Dispute Resolution and analyse the professional and ethical responsibilities of the forensic accountant in their collective roles in litigation support services.

## Final Case Study Assessment

Due: **5pm Sunday 9th June 2019**

Weighting: **30%**

**This assessment** involves a case study scenario. You will be required to identify the required/ necessary processes and procedures relevant to the case study and the courses/s of action that may be relevant. It must be **submitted via iLearn/Turnitin no later than 5 pm on the 9th June, 2019**

No extensions will be granted. Late tasks will be accepted up to 48 hours after the submission deadline. There will be a deduction of 10% of the total available marks made from the total awarded mark for each 24 hour period or part thereof that the submission is late (for example, 25 hours late in submission – 20% penalty). This penalty does not apply for cases in which

a **Special Consideration application** is made and **approved**.

On successful completion you will be able to:

- Recognise and comprehend the legal jurisdiction, procedural issues and principles that guide the role of the forensic accountant in the court system.
- Understand the core procedural aspects of the litigation process and the position of the forensic accountant, both in the commencement/termination of civil litigation and the obligation to protect interests of parties.
- Identify and interpret the rules of evidence and explain the role of the forensic accountant as an expert witness, including their professional/ethical responsibility and legal liability.
- Understand legal processes of resolution of claims including Alternative Dispute Resolution and analyse the professional and ethical responsibilities of the forensic accountant in their collective roles in litigation support services.

## Delivery and Resources

### Unit web page

Course material is available on the Macquarie University learning management system (iLearn). The web page for this unit can be found at <http://mq.edu.au/iLearn/index.htm>

The timetable for session dates and recess can be found on the University web site at: <http://www.timetables.mq.edu.au/>

### Prescribed and Recommended Texts and Materials

#### Textbook

Bamford, D. and Rankin, M.J (2017) *Principles of Civil Litigation 3e*, Law Book Co., ISBN: 9780455239071; ISBN: 41994607 (e book).

Weil, Roman L., Lentz, Daniel G. and Evans, Elizabeth A. (2017), *Litigation Services Handbook: The Role of the Financial Expert*, 6th Edition, Wiley Publishers, ISBN: 978-1-119-36318-7 (e book).

#### Journals

Heitger, Les, and Greer, Olen L. (2018) 'Forensic Accountant to the Rescue: A good forensic accountant with experience in cost/managerial accounting has the ability to save your organization's reputation and finances.' *Strategic Finance*, Mar. 2018, p. 48-52.

Koch, B., 'Legal professional privilege over accounting documents: Hogan v Australian Crime Commission [2010] HCA 21', *Bar News*, Summer 2010-2011, pp 20-21. <http://www.austlii.edu.au/au/journals/NSWBarAssocNews/2010/59.pdf>

Sanchez, M.H. and Zhang, S.W. (2012) 'The Role of the Expert Witness in Accounting Fraud

Cases', *Global Journal of Business Research*, Vol. 6, No. 1, pp. 103-111.

## Legislation

Crimes Amendment (Fraud, Identity and Forgery Offences) Act 2009 NSW [http://www.austlii.edu.au/au/legis/nsw/num\\_act/caiafoa2009n99500.pdf](http://www.austlii.edu.au/au/legis/nsw/num_act/caiafoa2009n99500.pdf)

Criminal Code (Theft, Fraud, Bribery and Related Offences) Amendment Act 2004 (ACT) <http://www.legislation.act.gov.au/a/2004-15/20040409-12338/pdf/2004-15.pdf>

Evidence Act 1995 No 25 NSW <https://www.legislation.nsw.gov.au/#/view/act/1995/25>

Privacy and Personal Information Protection Act 1998 (NSW) [http://www.austlii.edu.au/au/legis/nsw/consol\\_act/papipa1998464/](http://www.austlii.edu.au/au/legis/nsw/consol_act/papipa1998464/)

## Unit Schedule

The topics in the ACCG891 unit schedule are all approached with a focus on the role of a forensic accountant as a consultant and/or expert witness.

Module One: Introduction to the Litigation Environment			
Topic/ Subsection	Reading	Content	Delivery
1.1 a. Introduction	Pre- read ACCG981 Unit Guide and Assessment Guide.	Introduction to ACCG891 course structure and assessment requirements	Week 1 seminar
1.1 b. The Criminal and Civil Justice System		<ol style="list-style-type: none"> <li>1. Civil and criminal law classification</li> <li>2. Categories of law</li> </ol>	On-campus seminar Week 1 2nd March 2019
1.2 Commencing Civil Litigation: Jurisdiction and Parties	Read Bamford and Rankin, pp.27-54.	<ol style="list-style-type: none"> <li>1. Federal and State Court system hierarchy</li> <li>2. Parties &amp; Expert Involvement/ preparation in Case</li> </ol>	On-campus seminar, Week 1
1.3 Commencing Civil Litigation: The Practicalities	Read Bamford and Rankin, pp. 59 - 61	<p><b>Part A:</b></p> <ol style="list-style-type: none"> <li>1. Injunctions</li> <li>2. Search/seizure orders</li> </ol> <p><b>Part B:</b></p> <ol style="list-style-type: none"> <li>1. Asset preservation</li> <li>2. Pre-litigation disclosure</li> </ol>	Part A: On-campus seminar, Week 1

1.4 Pre-trial/Termination of Proceedings	Read Bamford and Rankin, pp. 129 -143; pp.154-155.	1. Default judgments 2. Non-compliance/abuse of process 3. Consent Orders/judgments	
<b>Module 2: Protection and Integrity of the Litigation Process</b>			
<b>Topic/Subsection</b>	<b>Reading/Activity</b>	<b>Content</b>	<b>Delivery</b>
1.5 Protecting Positions at Pre-Trial	Read Bamford and Rankin, pp.159 -176	1. Injunctions-pre-trial criteria 2. Preservation Orders	On-campus session, Week 3 16th March 2019
1.6 Discovery	Read Bamford and Rankin, pp.188-199.	1. Written reports 2. Interrogatories 3. Production of documents 4. Requests for admissions 5. Depositions 6. Subpoenas	On-campus session, Week 3
1.7 Privilege	Read Koch, pp.20-21. Read Weil <i>et al</i> , pp. 11-14.	Legal Position of accountants	
1.8 Rules of Evidence	Read <i>Evidence Act 1995 No 25</i> NSW; Read Weil <i>et al</i> , pp. 15-17.	1. Rules in each form of examination 2. Grounds for objection and inadmissibility	On-campus seminar, Week 9 11th May 2019
1.9 Forensic Accountant as an Expert Witness	Read Sanchez & Zhang, pp 103-111. Read Heitger, p.48-52.	1. Expert testimony 2. Post-trial briefs/finding of facts	On-campus seminar, Week 9
<b>Module 3: Navigating Liability, Dispute Resolution and Settlement</b>			
<b>Topic/Subsection</b>	<b>Readings/Activities</b>	<b>Delivery Content</b>	<b>Delivery</b>
1.10 Professional/Ethical Responsibility and Legal Liability as Expert Witness	Read Bamford and Rankin, pp. 204- 206. Read Evans <i>et al</i> p. 25 & Chapter 35, pp. 19-22).	1. Professional standards 2. Accountant liability litigation	On-campus seminar, Week 12 1st June 2019
1.11 Alternative Dispute Resolution (ADR)	Read Evans <i>et al</i> , pp. 18-22; p.125. Read Bamford & Rankin, pp. 217-235.	1. ADR- Advantages/ Disadvantages 2. Forms of ADR 3. Rules governing ADR 4. Role of experts	On-campus seminar, Week 12



1.12 Settlement, Compromise and Costs	Read Bamford & Rankin, pp. 293 - 307.	1. Legal Costs 2. Costs and Non -Parties 3. Assessing Costs	
1.13 a. Appeals	Read Bamford & Rankin, pp. 318 - 321; pp 306-311.	1. Right to appeal 2. Types of appeal 3. Grounds for Appeal	On campus seminar - Week 13 8th June 2019

## Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central](https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central) (<https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central>). Students should be aware of the following policies in particular with regard to Learning and Teaching:

- [Academic Appeals Policy](#)
- [Academic Integrity Policy](#)
- [Academic Progression Policy](#)
- [Assessment Policy](#)
- [Fitness to Practice Procedure](#)
- [Grade Appeal Policy](#)
- [Complaint Management Procedure for Students and Members of the Public](#)
- [Special Consideration Policy](#) (**Note:** *The Special Consideration Policy is effective from 4 December 2017 and replaces the Disruption to Studies Policy.*)

Undergraduate students seeking more policy resources can visit the [Student Policy Gateway](https://students.mq.edu.au/support/study/student-policy-gateway) (<https://students.mq.edu.au/support/study/student-policy-gateway>). It is your one-stop-shop for the key policies you need to know about throughout your undergraduate student journey.

If you would like to see all the policies relevant to Learning and Teaching visit [Policy Central](https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central) ([http](https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central)

[s://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central](https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central)).

## Student Code of Conduct

Macquarie University students have a responsibility to be familiar with the Student Code of Conduct: <https://students.mq.edu.au/study/getting-started/student-conduct>

## Results

Results published on platform other than [eStudent](#), (eg. iLearn, Coursera etc.) or released directly by your Unit Convenor, are not confirmed as they are subject to final approval by the University. Once approved, final results will be sent to your student email address and will be made available in [eStudent](#). For more information visit [ask.mq.edu.au](https://ask.mq.edu.au) or if you are a Global MBA student contact [globalmba.support@mq.edu.au](mailto:globalmba.support@mq.edu.au)

## Student Support

Macquarie University provides a range of support services for students. For details, visit <http://students.mq.edu.au/support/>

## Learning Skills

Learning Skills ([mq.edu.au/learningskills](https://mq.edu.au/learningskills)) provides academic writing resources and study strategies to improve your marks and take control of your study.

- [Workshops](#)
- [StudyWise](#)
- [Academic Integrity Module for Students](#)
- [Ask a Learning Adviser](#)

## Student Services and Support

Students with a disability are encouraged to contact the [Disability Service](#) who can provide appropriate help with any issues that arise during their studies.

## Student Enquiries

For all student enquiries, visit Student Connect at [ask.mq.edu.au](https://ask.mq.edu.au)

If you are a Global MBA student contact [globalmba.support@mq.edu.au](mailto:globalmba.support@mq.edu.au)

## IT Help

For help with University computer systems and technology, visit [http://www.mq.edu.au/about\\_us/offices\\_and\\_units/information\\_technology/help/](http://www.mq.edu.au/about_us/offices_and_units/information_technology/help/).

When using the University's IT, you must adhere to the [Acceptable Use of IT Resources Policy](#). The policy applies to all who connect to the MQ network including students.

## Graduate Capabilities

### PG - Capable of Professional and Personal Judgment and Initiative

Our postgraduates will demonstrate a high standard of discernment and common sense in their professional and personal judgment. They will have the ability to make informed choices and decisions that reflect both the nature of their professional work and their personal perspectives.

This graduate capability is supported by:

#### Learning outcomes

- Recognise and comprehend the legal jurisdiction, procedural issues and principles that guide the role of the forensic accountant in the court system.
- Understand the core procedural aspects of the litigation process and the position of the forensic accountant, both in the commencement/termination of civil litigation and the obligation to protect interests of parties.
- Identify and interpret the rules of evidence and explain the role of the forensic accountant as an expert witness, including their professional/ethical responsibility and legal liability.
- Understand legal processes of resolution of claims including Alternative Dispute Resolution and analyse the professional and ethical responsibilities of the forensic accountant in their collective roles in litigation support services.

#### Assessment tasks

- Participation
- Reflective Review
- Final Case Study Assessment

### PG - Discipline Knowledge and Skills

Our postgraduates will be able to demonstrate a significantly enhanced depth and breadth of knowledge, scholarly understanding, and specific subject content knowledge in their chosen fields.

This graduate capability is supported by:

#### Learning outcomes

- Recognise and comprehend the legal jurisdiction, procedural issues and principles that guide the role of the forensic accountant in the court system.
- Understand the core procedural aspects of the litigation process and the position of the forensic accountant, both in the commencement/termination of civil litigation and the

obligation to protect interests of parties.

- Identify and interpret the rules of evidence and explain the role of the forensic accountant as an expert witness, including their professional/ethical responsibility and legal liability.
- Understand legal processes of resolution of claims including Alternative Dispute Resolution and analyse the professional and ethical responsibilities of the forensic accountant in their collective roles in litigation support services.

## **Assessment tasks**

- Participation
- Reflective Review
- Final Case Study Assessment

## **PG - Critical, Analytical and Integrative Thinking**

Our postgraduates will be capable of utilising and reflecting on prior knowledge and experience, of applying higher level critical thinking skills, and of integrating and synthesising learning and knowledge from a range of sources and environments. A characteristic of this form of thinking is the generation of new, professionally oriented knowledge through personal or group-based critique of practice and theory.

This graduate capability is supported by:

## **Learning outcomes**

- Recognise and comprehend the legal jurisdiction, procedural issues and principles that guide the role of the forensic accountant in the court system.
- Understand the core procedural aspects of the litigation process and the position of the forensic accountant, both in the commencement/termination of civil litigation and the obligation to protect interests of parties.
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- Understand legal processes of resolution of claims including Alternative Dispute Resolution and analyse the professional and ethical responsibilities of the forensic accountant in their collective roles in litigation support services.

## **Assessment tasks**

- Participation
- Reflective Review
- Final Case Study Assessment

## Changes since First Published

Date	Description
15/03/2019	No change