**Research Essay: brief and instructions**

**TASK**

**Due: 11:59pm 22 October** **2021**.

**Question:**

Advocate Immunity is justified primarily by the principle of finality. This principle was described in *D 'Orta* as follows:

'A central and pervading tenet of the judicial system is that controversies, once resolved, are not to be reopened except in a few narrowly defined circumstances.'1

Is 'finality' a sufficient justification for the ongoing operation of Advocate Immunity in Australia?

In your answer, explain in your own words your understanding of advocates immunity and the principle of finality. Provide a clear answer to the question and support your answer with reference to primary sources (cases and/or legislation) and the arguments from a minimum of four scholarly (ie peer-reviewed) sourcesthat consider a range of view points**.**

You can refer to both domestic and foreign primary and secondary sources, provided they are relevant to your argument regarding Australia.  You may also refer to non-scholarly articles and resources provided they are from reputable sources, for example, law reform reports, resources from the Law Council or the NSW Law Society or Bar Association. However, these are over and above the four scholarly sources above. Please note that you should not refer to law firm web pages or other web pages or internet resources where you cannot verify the credibility of the author.

1*D'Orta-Ekenaike v Victoria Legal Aid*(2005) 223 CLR 1, 17 [34].

Word Limit: 1400-1500 words, excluding footnotes. A bibliography is not required.

**General Instructions**

Meaningful headings are encouraged.

Please use a font of at least 12pt and line spacing of at least 1.5. Please provide a margin of at least 2.5cm. Footnotes should be 10pt and single-spaced. Footnotes should be used for references only, with no further discussion.

Make sure you upload the correct file on time. It is your own responsibility to ensure you have access to a secure and reliable server and that you have allowed plenty of time to upload the assessment before the due time.

Upload your essay as a WORD file eg. doc. or docx.   Do not upload as a pdf.

Note that resubmissions are not allowed after the due date. (This applies even if you have been granted special consideration).

**Suggested approach to this paper:**

1.     You should re-read the relevant chapter in the text and re-listen to the lecture that deals with advocates immunity (Lawyers' Immunity). You should then do some independent research on the topic to begin to formulate your view on the topic. Note there is no 'correct' answer to this question. We are looking for a clear answer to the question which is rigorously argued and supported by quality primary and secondary sources.

2.     The paper should be a single coherent body of work with an introduction, a body and a conclusion.

3.     Provide an introduction to the essay which clearly identifies the thesis of the paper and the main arguments of your essay supporting that thesis.

4.     Aim for the body paragraphs to be 4-6 sentences each. Each paragraph should detail a single point or argument that supports your thesis. Follow the guidance given in the tutorials on 'Legal Writing' and review the feedback from the short essay.

5.     Provide a conclusion which clearly sums up your main arguments. The conclusion is not to introduce any new material or arguments.

6.     Comply with the requirements of AGLC4.

Please note:

* Do not repeat the essay question at the start of the paper.  If you do, it will be included in your word count.
* Do not include a title page. If you do, it will be included in the word count.
* Do not include a bibliography.
* Do not go over the maximum word limit. The extra words will not be read and this will impact your final mark.
* Do not go under the minimum word limit.
* The paper should be written in third person.

***Late Penalty:****Unless a Special Consideration request has been submitted and approved (a) a penalty for lateness will apply – 10/100 marks of credit (10% of the total assessment weighting) will be deducted per day for assignments submitted after the due date – and  (b) no assignment will be accepted seven days (incl. weekends) after the original submission deadline.*

**SUBMISSION**

Link is available on the main iLearn page

**ASSESSMENT CRITERIA**

On successful completion you will be able to:

* Describe and explain the role of the lawyer in Australian society.
* Identify different theoretical approaches to legal ethics and relate these approaches to a range of problems and settings.
* Explain and apply the law of professional responsibility that regulates the practice of law in Australia, including duties owed to the court, to the client, to practitioners, and to the community.
* Apply communication skills required for ethical practice, especially listening skills, interviewing skills, cross cultural communication skills, negotiation skills and writing skills, with an emphasis on plain English.

**RUBRIC below**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Criteria** | **Weight** | **HD (85-100)** | **D (75-84)** | **C (65-74)** | **P (50-64)** | **F (0-49)** |
| Theory and Analysis | 40% | Clearly and comprehensively answered the set question;  Use of modern scholarship: extensive;  Sources were used in the development of ideas and argument in a critical way, arriving at a logical conclusion after examining a range of viewpoints. | Completely answers the question;  Use of modern scholarship: extensive;  Sources were used in the development of ideas and argument with a reasonable attempt at critique.  Conclusion well supported by the arguments that were developed. | Mostly answers the question;  Use of modern scholarship: some, but range limited;  Attempt to integrate scholarship into argument; range of ideas limited. Arrived at a conclusion that may have been tentative or not fully supported | Attempts to answer the question, but does not answer the entire question, or follow through with reasoned argument;  Use of modern scholarship: little used;  Sources were quoted rather than used to develop an argument; linear presentation of material with little development to arrive at a conclusion that was limited | Does not answer the question;  Use of modern scholarship: minimal to no use;  Sources quoted without context or relevant discussion with a conclusion that was either absent or not well supported |
| Law | 30% | Demonstrated a thorough and critical knowledge of the regulation of the legal profession relevant to the set question. | Demonstrated a comprehensive knowledge of the regulation of the legal profession relevant to the set question. | Demonstrated a sound knowledge of the regulation of the legal profession relevant to the set question. | Adequately described the regulation of the legal profession relevant to the set question. | Lack of understanding of the regulatory regime as it applies to the set question. |
| Plain English | 20% | Sophisticated application of the principles of plain English.  Logically structured the content to create a coherent analytical piece of work.  Consistently adhered to grammar and punctuation conventions.  No spelling errors | Comprehensive application of the principles of plain English.  Logically structured the content to create a coherent analytical piece of work.  Few errors of grammar, spelling or punctuation. | Proficient use of plain English;  Clearly structured the content.  The paper was easy to read and the argument flowed logically;  Mostly followed grammar, spelling and punctuation conventions | Sound use of plain English;  Partially structured the content into loosely-linked rudimentary paragraphs to create a comprehensible descriptive piece of work;  Several errors of grammar, spelling and/or punctuation | Used language that was difficult to understand or not suited for the task.  The structure of the paper was confusing and the argument did not flow well.  Did not accurately proof read the work before submission |
| Referencing | 10% | Accurately and consistently adhered to the Australian Guide to Legal Citation 4th ed. | Consistently adhered to the Australian Guide to Legal Citation 4th ed with few errors | Mostly adhered to the Australian Guide to Legal Citation 4th ed | Followed some of the Australian Guide to Legal Citation 4th ed. | Did not adhere to the Australian Guide to Legal Citation 4th |