

La Trobe University
LST2BSL: Introduction to Business Law and Ethics
Semester 1, 2021 – (BU; AW; BE; MI; SH)
Common Law Assignment

INSTRUCTIONS – Please read the instructions BEFORE you start writing your assignment!

1. This assignment is **worth 20% of your final mark** for this subject.
2. Your assignment **MUST be submitted by 11.59 pm (midnight) on Sunday 18 April.**
3. **All questions MUST be answered.**
4. **With regards to formatting**, your assignment must be typed with 1.5 or double spacing, and with margins of at least 2cm on all sides. Size 12 font **MUST** be used.
5. The task is a **common law assignment**, so **you are NOT required to discuss any legislation at all.** It is essential that you cite relevant authorities (cases) wherever possible to support your reasoning in each answer.
6. **Your work MUST be appropriately referenced, using footnotes.** Where you state a legal principle, which comes from a case, you must provide a citation to the relevant case. If you are stating a legal principle that is covered in the textbook or lecture and which does not have a relevant case provided in the textbook, you should cite the textbook. You are not expected to use any materials beyond the lectures and the set textbook. But if you do, you must provide appropriate citations. **No separate bibliography is required.** Format your citations according to the citation guide at the end of this document.
7. Your assignment **must be 1,500 words or fewer, excluding all footnotes.** You should not need the 10% leeway as a guide. You must state the word count on the front page of your assignment. (If you fail to provide this, the marker will be forced to estimate the word count, and this may lead to penalties.)
8. You must also **state the details of your seminar on the front page** of your assignment. This includes the day and time of your seminar, and the name of your seminar leader.
9. **Assignment submission is electronic only**, via the link on LMS. Do **NOT** email your assignment to your seminar leader or the subject coordinator. Your assignment will not be marked unless and until you have completed electronic submission. You should receive a digital receipt confirming your successful submission. You are responsible for ensuring submission is successful. Should any technical problems arise, if you cannot provide details of your digital receipt, we will assume that you never attempted to submit any assignment.
10. **You can only submit your assignment once.** Submission is final. You will not be able to access your Turnitin originality report. Teaching staff will be checking these reports ourselves.
11. **You MUST not plagiarise.** To avoid plagiarism, make sure you acknowledge all your sources with appropriate citations. You may discuss the questions with other students, but **all written work must be your own**: do not show anyone your written work for this assignment, and do not view anyone else's. **Academic misconduct is taken extremely seriously at La Trobe University.** Further information about plagiarism and academic misconduct is provided in the Subject Learning Guide.
12. You may use a bilingual dictionary, but **you MUST NOT use any online tools for changing or translating text.**
13. **Further information** about policies on late submission, applying for an extension, etc. is available on the LMS, and in your Subject Learning Guide.

ANSWER ALL QUESTIONS

Valerie spots a rosewood bookcase in an antique shop owned by Jim and Belinda, which has a price tag of \$4000. Valerie approaches Jim and tells him that she will take the bookcase for \$2000. Jim says that it isn't possible but how about \$3000? Valerie says no, how about \$2,500? Jim says no again, and he tells Valerie that his lowest price is \$3000. Valerie does not reply that she will accept the bookcase for \$3000 and she steps away from Jim to take a call on her mobile phone. While Valerie is talking on her mobile phone, Jim turns to serve another customer Isabella. After finish talking on her mobile phone, Valerie then turns to pay for the bookcase, but Jim says he has already sold it to Isabella for \$4000. Valerie is furious and says that she and Jim had a contract, and the bookcase was hers.

1. As between Valerie and Jim, who made the offer? (4 marks)
2. As between Valerie and Jim, who accepted the offer and was the acceptance valid? (3 marks)

Jim's wife Belinda runs the rare stamps section of the business and conducts much of the business through the post. On Monday, she wrote separate letters to two of her regular customers, Eddie and Joseph, offering to sell them some rare stamps for \$1500. Eddie received Belinda's letter at 5 pm on Tuesday and immediately posted a letter of acceptance to Belinda on Wednesday at 9 am. Joseph also received Belinda's letter of offer on Tuesday, and went to Belinda's shop at 10 am on Wednesday and happily bought the rare stamps. On Thursday, Belinda received Eddie's letter of acceptance and consequently Belinda telephoned Eddie and informed him that she had already sold the stamps to Joseph. Eddie is certain that he is entitled to the stamps.

3. Is Eddie correct to say that he is entitled to the stamps by arguing that his letter of acceptance was effective? (3 marks)

Jim and Belinda frequently exhibit their rare stamps and antique collection to promote their business. Belinda asks one of her sisters, Nicky who is looking for a job to organise and exhibit their collection. Belinda is overjoyed with Nicky's performance and she does not want Nicky to stop helping her. A couple of months later, Nicky receives a good job offer from the National Philatelic Gallery. Belinda tells Nicky that if she stays to work for her until the end of the current exhibition, she will "give her some of the rarest stamps in her collection that are worth a lot of money". Nicky agrees to give up her good job, so Belinda asks her lawyer to record her promise in a written agreement. A month after the exhibition has ended, Belinda refuses to hand over the rarest stamps to Nicky and she tells Nicky that agreements between family members are not binding.

4. Can Nicky enforce the agreement against her sister, Belinda? (5 marks)

Jim has been hiding a secret from Belinda that he has a girlfriend, Sheena for the last 5 years. They met when they were enrolled in a website design class. Jim has been spoiling Sheena by giving her a lot of money every month. Recently, they have been quarrelling a lot and Jim has decided to recover the money he has given to Sheena. He says to his lawyer that the money had been a loan, not a gift. Sheena disagrees and claims that the money had been a gift. After they have calmed down, they meet up to patch things up. Jim and Sheena draft and sign a document before Jim gives it to his lawyer to formalise it. In the document, Jim agrees that he will not recover the money he has given to Sheena, but that Sheena is to help him in his online business that has not been doing well. In exchange for Jim's promise, Sheena agrees to help Jim with his online business because Jim needs Sheena's website design skills to improve his online business.

5. Has Sheena given valid consideration for Jim's promise? (5 marks)

Guide to citation for the common law assignment

Legal citation is different to other styles of citation, such as Harvard or other in-text citation. Legal citation involves providing the most relevant legal authority for any statement of legal rules or principles. Citations are provided in footnotes. (If you are working in MS Word, simply go to the 'References' tab and click on 'Insert Footnote'.)

For the purposes of LST2BSL Introduction to Business Law and Ethics, we do not expect you to learn the Australian Legal Guide to Citation, which is the usual approach to legal citation in Australia. That Guide is incredibly complex. Instead, you can simply follow these instructions for citations in your common law assignment.

As stated above in the Assignment Instructions, where you state a legal principle, which comes from a case, you must provide a citation to the relevant case. You are not expected to read the cases themselves: as long as a case is summarised in the textbook, you can cite the case itself. An example of this would be if you said this in your assignment:

If a letter of comfort includes statements which are not promissory, then it probably was not intended to be legally binding.¹

Alternatively, you could mention the case name in the sentence of your assignment itself, and just put the case citation in a footnote, like this:

As in the case of *Commonwealth Bank of Australia v TLI Management Pty Ltd*² a letter of comfort with only non-promissory statements was probably not intended as legally binding.

Either way, we expect you to provide a citation to the relevant case for the legal principle you are stating.

If you are stating a legal principle that is covered in the textbook or lecture and which does not have a relevant case provided in the textbook, you should cite the textbook. An example of this would be:

If an agreement is executed as a deed, then there is no requirement for both parties to provide consideration.³

Please also note that you are not expected to use any materials beyond the lectures and the set textbook. But if you do, you must provide appropriate citations. No bibliography is required. Finally, remember that footnote citations do not count towards your word count, so don't hesitate to provide citations for any statement of legal principle. If in doubt, provide a citation.

¹ *Commonwealth Bank of Australia v TLI Management Pty Ltd* [1990] VR 510.

² [1990] VR 510.

³ Michael Lambiris and Laura Griffin, *First Principles of Business Law* (Oxford University Press, 2017, 10th edition) 83.