

ESSENTIAL LATIN
FOR LAWYERS

ESSENTIAL LATIN FOR LAWYERS

SECOND EDITION

Russ VerSteeg



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ACKNOWLEDGMENTS TO THE FIRST EDITION

I am grateful to the many people who assisted, either directly or indirectly, in the preparation of this book. I have dedicated this book to my parents, Bob and Sally, who initially encouraged me to study Latin and the Classics. I owe immeasurable gratitude to my wife, Nina, without whose patience and support I simply could not have written this book. I am also grateful to my daughter, Whitney, and my son, Carlton, who have endured many weekends without daddy as a result of my efforts to complete the manuscript. Furthermore, I must thank John W. Barclay, whose support and encouragement made my legal education possible. In addition, I am indebted to the following individuals: Dr. Christina Elliot Sorum, whose creative and inspirational teaching made the study of Latin exciting and convinced me to major in Latin; Professor Olympiad Ioffe, who supervised my initial work on this project; Lynn Daggett, Esq., Craig Tateronis, Esq., Judy Hogan, Esq., and David Cavicke, Esq., who helped me formulate and distribute my original survey for law professors at Harvard, Stanford, Yale, and the University of Connecticut; Dr. Norma Goldman, Dr. Jacob Nyenhuis, and the Wayne State University Press who have given me permission to reprint a portion of their Latin text, *Latin Via Ovid*, in the appendix; Maureen Walsh, who has provided research assistance through funding from Western New England College School of Law; the professors at the University of Connecticut, Harvard, Yale, and Stanford who took the time to complete my original survey; and my colleagues at Western New England College School of Law.

INTRODUCTION TO THE FIRST EDITION

This book is designed to assist law students, practicing attorneys, undergraduates studying Latin etymology, paralegals and students in paralegal training, and anyone else interested in the law and its Latin heritage. The vast majority of lawyers and law students today have not studied Latin. Consequently, it is natural to feel intimidated and discouraged by the inability to cope with the myriad Latin words and phrases found in legal writing. The practice of law and the study of law in law school are difficult enough in many other ways. Lawyers and law students should not be forced to contend with a Latin language barrier. Even if law students or lawyers have studied Latin in high school or in college, chances are that they no longer remember their declensions and conjugations (not to mention the peculiar legal vocabulary) well enough to fully understand the Latin legal terminology they find in their daily practice or in law school casebooks.

In this book, I translate the Latin words and phrases that lawyers, law students, and paralegals are most likely to meet.¹ Additionally, I explain the use of the Latin terminology with respect to the broader legal context in which it occurs. By both translating and explaining, I hope to help students and practitioners learn the most important and most commonly occurring Latin terms used in legal writing and to assist them in their own legal analysis and writing.²

I must mention that today most authorities advise students and lawyers to avoid Latin terminology in their writing whenever possible.³ Although this advice obviously has a great deal of merit, the fact remains that modern Anglo-American law has retained thousands of Latin words, phrases, and maxims that lawyers and judges continue to use. In some instances, the Latin terminology has historical value only. To be sure some use Latin in an effort to sound erudite or to intimidate adversaries.⁴ But the bench and bar also utilize Latin terminology as a convenient shorthand for principles and ideas that would otherwise take para-

graphs to explain. Every day, lawyers and our courts prove that Latin is not a dead language.

This book is divided into two separate parts. Chapters One through Nine provide translations, discussions, and explanations of Latin legal terminology arranged according to subject matter. I have tried to isolate the most important half dozen or so Latin terms that are germane to each substantive area of law. Chapter Nine examines a handful of the most common Latin words and phrases that are found in all areas of the law. Where possible, I give concrete examples and legal authority to support the translations with a contextual framework. I think that this subject area format offers a fuller insight into the role that Latin terminology plays in the law. The second part of the book is a glossary of approximately 300 Latin terms that frequently occur in legal writing. I have tried to include only terminology that law students and lawyers are actually likely to see in study and practice. I have purposely tried to exclude truly obscure and infrequently occurring words and phrases: hence the book's title serves a genuinely descriptive purpose.

Admittedly, this book, by its very nature, covers much material that can be found in other places (e.g., a law dictionary, course outlines, etc.). However, I hope that the unique organization, arrangement, and relational format in which I present this information will prove useful for experienced practitioners, young attorneys, paralegals, and law students who encounter legal Latin.

Lastly, I have included a guide to classical Latin pronunciation in the appendix. Lawyers tend to butcher Latin pronunciation. I must admit that we have adopted anglicized pronunciations in our everyday spoken English. Nevertheless, I think that it is important to make available a reliable reference for Latin pronunciation. I hope that the legal profession can incorporate at least a semblance of proper Latin pronunciation into its daily use.

ENDNOTES

1. Although few would question that Anglo-American legal writing is replete with Latin terminology, because it would be difficult for any one individual to determine which Latin words and phrases are of primary importance as opposed to those which are merely ancillary, I decided to survey law professors in order to ascertain which Latin terms are the most important.

For each of the first year subjects, I asked professors to indicate which ten words/phrases they believed students would most likely encounter in their classes and would probably need to have explained. I also asked the professors not necessarily to limit their list of ten to the possibilities that I had provided on the survey. Rather, I suggested that they should feel free to add others of their own choosing (and many did just that). For the “general terms” category, I asked the professors to indicate which terms law students were most likely to meet in their course reading and which, in the opinion of the professors, any self-respecting law student should know.

I later gathered the Latin terms most commonly found in corporations/tax law and evidence to make the study more complete. My effort has been to isolate the most important half-dozen (or so) Latin terms and to discuss them in each substantive chapter.

2. In addition to translating and explaining the terms in context, as a general rule, I also explain the Latin grammar of each term. I have also included a brief historical overview of the Roman law of each of the eight substantive areas entitled “The Roman Background,” which I hope the reader will find interesting and worthwhile. For more detailed treatments of ancient Roman law, let me suggest a few works: J. Thomas, *Textbook of Roman Law* (1976), Barry Nicholas, *An Introduction to Roman Law* (1976), Russ Versteeg, *The Essentials of Greek and Roman Law* (2009), and O. Ioffe, *Roman Law* (1987).

3. See, e.g., R. Wydick, *Plain English for Lawyers* 53–55 (2d ed. 1985). Wydick laments that “too often lawyers use Latin . . . phrases needlessly. Sometimes they do it out of habit or haste—the old phrase is one they learned in law school, and they have never taken time to question its use. Other times they do it believing mistakenly that the old phrase’s meaning cannot be expressed in ordinary English, or that the old phrase is somehow more precise than ordinary English.”

4. See, e.g., Getman, *Colloquy: Human Voice in Legal Discourse*, 66 *Tex. L. Rev.* 577 (1988), who states: “Perhaps because professional voice derives from case law of varying ages, its rhetorical style tends to be formal, erudite, and old-fashioned. Its passages often are interspersed with terms of art and Latin phrases, as though its user were removed from and slightly above the general concerns of humanity.” See also *Butler v. Bruno*, 341 A. 2d 735 (1975), where Justice Kelleher of the Rhode Island Supreme Court commented:

[T]he civil-law rules are encrusted with the verbiage that is usually associated with the law of real property. When they are used, one hears such terms as easement, the dominant estate, the servient estate, and servitudes, and the classicist has the opportunity to try his hand at translating such ponderous Latin phrases as *cujus est solum, ejus usque ad coelum et ad inferos*, or *aqua currit, et debet currere ut currere solebat*.

Id. at 738.

ACKNOWLEDGMENTS TO THE SECOND EDITION

Carolina Academic Press gave me the opportunity to begin an academic career when they agreed to publish the first edition of this book in the late 1980s. I am deeply indebted to Keith Sipe, Linda Lacy, and the staff at Carolina Academic press, past and present, for their continued support and encouragement with a number of writing projects, including their request that I update this book with a second edition. Shortly after the publication of the first edition, in 1991, I took a tenure track teaching position at New England School of Law (renamed New England Law | Boston in 2008) in Boston, Massachusetts. The administration, faculty, staff, and students at New England contributed immeasurably to my development as a teacher and scholar, and, therefore, the ability to undertake writing this second edition. Without the feedback and support of all of those individuals affiliated with New England Law | Boston, the second edition would not have been possible. I am grateful to them all.

Fortunately, several New England Law | Boston students volunteered to help with this project: Francis DiMento, Shane Eagan, Arielle Grey, and Jodi Robertson provided research assistance in the fall semester 2022. My long-time friend, Barry Stearns, Research Librarian at New England Law | Boston, helped with updating many statutory references and other material. Additionally, Michael Dimino provided extensive feedback. He caught numerous mistakes and suggested many helpful revisions.

Finally, I wish to thank my wife, Nina Barclay (B.A. Classics, Brown University, M.A. Latin, UNC-Chapel Hill), for her constant encouragement and unwavering support.

INTRODUCTION TO THE SECOND EDITION

Needless to say, the Latin phrases, themselves, have not changed significantly since the first edition of this book was published in 1990. It is, however, noteworthy that lawyers, lawmakers, courts, and legal scholars have continued to use Latin words and phrases in their legal writing and analysis and show no signs of discontinuing that practice. The principal goals of publishing a second edition are to provide more contemporary examples of the use of Latin terminology in the law and to update references that have been amended subsequent to the first edition. I sincerely hope that readers find this revision beneficial.

