



LEGAL ENGLISH

INGLESE GIURIDICO

ONE-CYCLE MA IN LAW

FACULTY OF ECONOMIC, LAW AND POLITICAL SCIENCES

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RICEVIMENTO: PER APPUNTAMENTO
GIOVEDÌ 12:00-14:00 SU TEAMS
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LEGAL
ENGLISH
48 hours
6 cfu

Pagina Web: https://www.unica.it/unica/page/it/mariaa_marongiu

- **Orario lezioni e ricevimento, avvisi**
- **Materiale didattico scaricabile relativo alle lezioni:**
 - Materiale usato a lezione,
 - materiali su contenuti specialistici e sulla struttura della lingua,
 - Assignments, Exercises,
 - Mock-test con soluzioni.

T i m e t a b l e	MONDAY		TUESDAY		WENSDAY		THURSDAY		FRIDAY	
	<u>Aula 10 bis - Edificio A - via S. Ignazio, 70/72/74</u>									
	-----		27 Feb 10:00-12:00		28 Feb 10:00-12:00		29 Feb 10:00-12:00			
	04 Mar 10:00-12:00		05 Mar 10:00-12:00		06 Mar 10:00-12:00		07 Mar 10:00-12:00		08 Mar 10:00-12:00	
	11 Mar 10:00-12:00		12 Mar 10:00-12:00		13 Mar 10:00-12:00		14 Mar 10:00-12:00			
	18 Mar 10:00-12:00		19 Mar 10:00-12:00		20 Mar 10:00-12:00		21 Mar 10:00-12:00			
	25 May 10:00-12:00		26 May 10:00-12:00		27 Mar 10:00-12:00		-----			
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	08 Apr 10:00-12:00		09 Apr 10:00-12:00		10 Apr 09:00-12:00		11 Apr 09:00-12:00			
	APPELLI									
31 May - 16:30 Lab Ling – Edificio A Sant'Ignazio			28 June – 9:00 Lab Ling – Edificio A Sant'Ignazio			28 July – 12:00 Lab Ling – Edificio A Sant'Ignazio			6 Set – 09:00 Lab Ling – Edificio A Sant'Ignazio	

Lesson 4 - The Language of Law

Introduction

Working with language and communicating effectively are essential skills for all lawyers. Law, like many other professions, has its own language which has been developed over hundreds of years making it technical and difficult for non-lawyers to understand. This is often called *legalese*.

Legal writing is characterized by the use of **Latin** and **French** terminology.

Lesson 4 - The Language of Law

WHAT IF...

... a judge says this sentence: "*Prima facie*, the contract is to be considered void *ab initio, inter alia*, due to the absence of *bona fide* negotiations on the part of the parties". Can you explain to your client what the Judge is saying using plain English?

Lesson 4 - The Language of Law

Latin

Common law contains many Latin terms. Law students and practitioners need to understand the meaning of these terms and be able to explain them to their clients using plain English terminology and use them correctly. Some Latin terms in law include:

Law French

Following the Norman conquest of England in 1066 by William the Conqueror, **Law French** (originally a Norman French dialect used by the ruling Anglo-Normans) was introduced as the language of the Courts. The English ruling class spoke Anglo Norman and the lower classes continued to communicate in English.

Lesson 4 - The Language of Law

Many Law French terms originated from Latin but were shortened and distorted through usage.

Even though Law French is not used today, many terms have been retained and continue to be used. Here is a list of some of these key terms.

During the 14th century, vernacular French suffered a rapid decline when all social classes began communicating in English, and the use of Law French was criticized by those who argued that lawyers sought to restrict entry into the legal profession. The **Pleading in English Act 1362** made it compulsory for all pleadings to be in English. This signaled the beginning of the end of Law French.

Make a Case for Your Knowledge with These Essential LEGAL TERMS!

The legal system can be complex and intimidating, but it's important to understand the terminology in order to protect your rights and navigate the system. Check out these essential legal terms and their definitions.

LEGAL TERMS	DEFINITION
Habeas Corpus	The right to challenge your detention or imprisonment in court.
Subpoena	A court order requiring someone to appear in court or produce evidence.
Statute	A law passed by a legislative body, such as Congress or a state legislature.
Precedent	A legal decision or ruling that serves as a guide for future cases.
Tort	A civil wrong or injury, such as negligence or defamation, for which the injured party may seek compensation.
Plaintiff	The person or party who brings a legal action or lawsuit.
Defendant	The person or party against whom a legal action or lawsuit is brought.
Jury	A group of people who are selected to hear evidence and make a decision in a legal case.
Appeal	A request for a higher court to review and potentially overturn a lower court's decision.



Lexicon in context

Here are some example sentences that use legal terms:

- The plaintiff is seeking damages for the injuries he sustained in the car accident.
- The defendant has been charged with assault and battery.
- The evidence presented at trial was not sufficient to prove the defendant's guilt.
- The jury reached a unanimous verdict in favor of the plaintiff.
- The defendant plans to appeal the decision to the Supreme Court.

Legal Vocabulary

Here are some legal vocabulary words that you should know:

Word	Definition
Jurisdiction	The authority of a court to hear and decide a case
Statute	A law passed by a legislative body
Precedent	A legal decision that serves as a guide for future cases
Liability	Legal responsibility for one's actions or debts
Breach	A violation of a legal obligation

Criminal Law Terms

Criminal law deals with crimes and their punishment. Here are some common terms you may encounter:

Term	Meaning
Felony	A serious crime that is punishable by imprisonment for more than one year
Misdemeanor	A less serious crime that is punishable by imprisonment for less than one year
Homicide	The killing of one person by another
Burglary	The act of breaking into a building with the intent to commit a crime
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Civil Law Terms

Civil law deals with disputes between individuals or organizations. Here are some common terms you may encounter:

Term	Meaning
Lawsuit	A legal action brought by one person against another
Plaintiff	The person who brings a lawsuit
Defendant	The person who is being sued
Damages	Money awarded to the plaintiff to compensate for harm or loss
Breach of contract	The failure to fulfill the terms of a contract

Example sentence: The plaintiff sued the defendant for breach of contract after he failed to deliver the goods on time.

Contract Law Terms

Contract law deals with agreements between individuals or organizations. Here are some common terms you may encounter:

Term	Meaning
Offer	A proposal to enter into a contract
Acceptance	Agreement to the terms of a contract
Consideration	Something of value that is exchanged in a contract
Breach of contract	The failure to fulfill the terms of a contract
Termination	The ending of a contract

Example sentence: The offer was accepted, and the parties entered into a contract for the sale of the property.

International Law Terms

International law deals with the legal relationships between nations. Here are some common terms you may encounter:

Term	Meaning
Treaty	An agreement between two or more nations
Diplomacy	The practice of conducting negotiations between nations
Sovereignty	The authority of a nation to govern itself
Human rights	The basic rights and freedoms to which all humans are entitled
International Court of Justice	The principal judicial organ of the United Nations

Example sentence: The two nations signed a treaty to promote cooperation in the areas of trade and commerce.

OVER TO YOU!

What do you think of the outcome of the two comma cases?

Did the Court come to a fair and just conclusion in each case?


LESSON 4

Exercise 6 AUDIO 1.0.4



Lawyers are often accused of using legalese which is legal jargon that only lawyers understand. The style and tone of a letter will change depending on who a lawyer is writing to. For example, if a lawyer is writing to a client who does not have legal knowledge, they will need to write plainly so that the client is able to understand them better and will need to explain any legal terms in the letter. When lawyers use capital letters for words in a legal document, this means that the words or phrases have a specific meaning which is usually found in the Defined Terms Clause.



6.  **1.0.4 Listen to the audio and complete the text with the missing words.**



Lawyers are often accused of using *legalese*, which is **1**..... jargon that only lawyers understand. The style and **2**..... of a letter will change depending on who a lawyer is writing to. For example, if a lawyer is writing to a **3**..... who does not have legal knowledge, they will need to write plainly so that client is **4**..... to understand them better and will need to explain any legal **5**..... in the letter. When lawyers use capital **6**..... for words in a legal document, this means that the words or phrase have a specific meaning which is usually **7**..... in the Defined Terms Clause.



1. Read the lines from articles in a legal newsletter and insert the correct words.

alibi • bona fide • per annum • quantum meruit • ultra vires

... There was no contract for the building work, but the Court held that the builder was entitled to payment on a **1**..... basis. ...

... The Tribunal acted outside its powers and so it was held that it acted **2**.....

...The buyer was a **3**..... purchaser for good value of the property. ...

... The defendant relied on the defence of **4**..... to demonstrate that he was not present at the crime scene. ...

... A partner in a magic circle firm may earn up to £1m **5**.....

3. Write the letters into the gaps to give the Latin expressions for the meanings.

- | | | | | | | | |
|---|--------------------------------|-----|-----|-----|-----|-----|-----|
| 1 | so, thus | ___ | ___ | ___ | | | |
| 2 | in the same place - ibid | ___ | ___ | ___ | | | |
| 3 | civil wrong or injustice | ___ | ___ | / | ___ | ___ | ___ |
| 4 | load or obligation | ___ | ___ | ___ | ___ | | |
| 5 | created for a specific purpose | ___ | ___ | / | ___ | ___ | ___ |
| 6 | almost, or, as if it were | ___ | ___ | ___ | ___ | ___ | |

4. Circle the correct Latin word(s) in each of the following sentences.

- If a payment is in proportion it is pro forma / pro rata.
- The way to say 'through lack of' is per curiam / per incuriam.
- In camera / curia means in open court.
- A matter that has been decided is res judicata / ipsa loquitur their losses.

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... The defendant relied on the defence of **4. alibi** to demonstrate that he was not present at the crime scene. ...

... A partner in a magic circle firm may earn up to £1m **5. per annum** ...

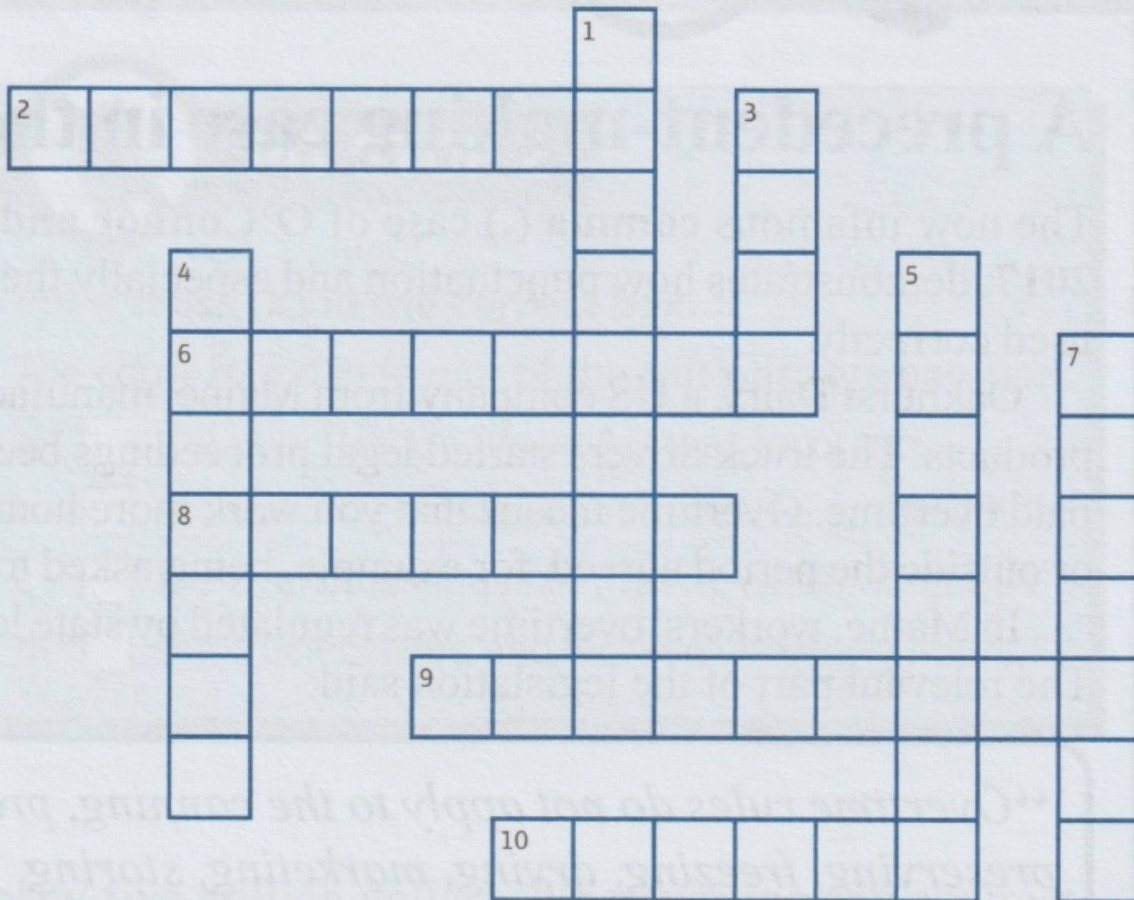
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5. Complete the crossword with the words that are derived from Law French on page 11.

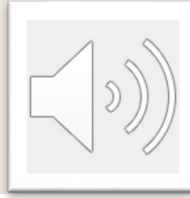


ACROSS

- 2 to prevent a person contradicting a previous statement or action
 6 is to be a legal representative of someone
 8 the guilty party
 9 the person who the action is brought against
 10 conditions for release of a prisoner

DOWN

- 1 the party starting legal proceedings
 3 a group of lay people assembled to decide innocence or guilt
 4 theft of personal property
 5 a loan to buy land or a house
 7 something that is personal property




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CASE STUDY: THE FIVE MILLION DOLLAR COMMA

A PRECEDENT-MAKING CASE

IN THE COMMON LAW

The now infamous **comma (,)** case of **O'Connor and Ors v Oakhurst Dairy; Dairy Farmers of America Inc, 2017**, demonstrates how punctuation and especially the "Oxford Comma" can have devastating consequences if not used correctly.

Oakhurst Dairy, a US company from Maine, manufactured and delivered milk products. The truck drivers started legal proceedings because they were not being paid overtime. Overtime means that you work more hours than your contract says or outside the period agreed, for example, being asked to work after 5pm.

In Maine, workers' overtime was regulated by state legislation. The relevant part of the legislation said:

“Overtime rules do not apply to the canning, processing, preserving, freezing, drying, marketing, storing, packing for shipment or distribution of (1) agricultural products; (2) meat and fish products; and (3) perishable foods.”

*There is
no comma
here!*



When reading this long sentence, you can see that there is no comma after the word “shipment” so the phrase is “packing for shipment or distribution” and not “packing for shipment, or distribution”. So this might mean packing for shipment *or* packing for distribution, not the act of distribution which is what the truck drivers were doing.

In English grammar, we call the last comma in a list a *serial comma*. It is also called the *Oxford comma* because Oxford University Press systematically use the comma in this way. It is a common style of punctuation in the UK. However, in the US, this last comma is optional.

The drafters of legislation in Maine did indeed ignore the Oxford comma. The result was the creation of ambiguity when it came to reading the legislation.

The truckdrivers' Counsel picked up on this ambiguity and sought (aimed) to challenge the interpretation of the legislation. They said that due to the absence of the comma between *shipment* and *or*, the truckdrivers were not covered by the provisions of the statute. The truckdrivers argued that they were distributing the milk products, not packing them, so were not referred to in the legislation.

The Truckdrivers' "comma case" went all the way to the US Supreme Court in Washington. Both parties presented their side of the dispute to the Court.

PIT STOP

Answer the following questions related to the text you've just read.

- 1 What type of products does a dairy company make?
- 2 What did the truck drivers want?
- 3 Would a cook in a strawberry jam factory in Maine be paid overtime? Why?
- 4 The absence of what type of punctuation created the ambiguity?
- 5 What is another name for the Oxford comma?
- 6 What did the truck drivers argue?

The Comma Argument The Dairy Company argued that the drafting manual used by Maine's legislative drafters recommended they do not use the Oxford comma. Drafters are people who write (draft) laws and contracts.

The Truck Drivers agreed that the manual says this, but they added it was optional. The drafters were allowed to choose whether or not to use the Oxford Comma. They chose not to use it and as a result created ambiguity.

Conclusion: The Court decided in favour of the truck drivers. The Court ultimately concluded that despite the interesting arguments involving punctuation, the laws are written to protect citizens. Further, the Court said that where there is ambiguity in any law, the Courts will read the statutory provision against the party seeking to rely on it – in this case the Dairy Company. This is an important Latin principle – the *contra proferentum*.

Contra proferentum means "against the one putting it forward" and so, ambiguities in documents (contracts, deeds etc) and or statutes should be interpreted against the drafter. The Courts feel comfortable doing this because it is assumed that the person producing the document should avoid any ambiguities when drafting it.

PIT STOP

Put a cross (X) in the correct box.

The court found in favour of the truck drivers because

- the punctuation of the Act was incorrect.
- the Oxford comma is not accepted in the US.
- the overtime clause in the Act was ambiguous.
- the truck drivers had worked very long hours.

Why does this case matter?

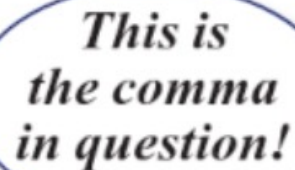
Punctuation matters. A simple comma cost the dairy company five million dollars. When writing any contract, the drafter is responsible for making sure that there are no ambiguities in the contract. If there are, due to *contra proferentum*, the Court will find in favour of the other party to the contract.

However, this is not the first time the comma became the culprit.

The Telecommunications Comma

One of the biggest cases involving a comma was Rogers Communications and Bell Aliant in 2007. They fought a legal battle worth a million Canadian dollars (\$760,000) involving a contract for the replacement of utility poles across Canada.

The Contract clause said:



***This is
the comma
in question!***

“This agreement shall be effective from the date it is made and shall continue in force for a period of five (5) years from the date it is made, and thereafter for successive five (5) year terms, unless and until terminated by one year prior notice in writing by either party.”

The dispute centred around the comma after the words "for successive five (5)_year terms,, unless..." with each party having its own interpretation of what that clause meant.

Bell Aliant's position was that a single year's notice of termination applied at any time. Rogers, on the other hand, argued that the notice of termination only applied after the first five-year term came to an end.

The interpretation of this clause was crucial to Rogers. They had an exceptionally good deal if their interpretation of the contract was correct because at the time, they signed the contract in 2002, they paid Bell Aliant only CAD\$9.60 to lease each of the poles.

The cost of the poles had nearly doubled by 2004 and Bell Aliant wanted to terminate the contract to renegotiate at a new, higher price. Rogers resisted this.

The decision: Canada's Radio-Television and Telecommunications Commission first ruled in favour of Bell Aliant in 2006 but in 2007, reversed its decision after reading the French version of the contract. The latter did not include the same ambiguity. So the final ruling was in favour of Rogers.

Read the list of archaic words on page 11 and then match words with their modern English meanings.

1	In spite of	a) with this b) notwithstanding c) starting from now or a later time d) written below e) already mentioned/identified f) written above g) in that document	
2	Hereinafter		
3	The aforesaid		
4	The undermentioned		
5	The said		
6	Therein		
7	Herewith		

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5	The said		5.f
6	Therein		6.g
7	Herewith		7. a

Read about Law French on page 11 and complete the text.

Law French is not modern French because it is derived from the Norman French dialect from 1,000 years ago and it has been distorted through usage. It was the language of the aristocracy in Britain after the Norman conquest in 1066 when the Normans their own court system in England and Wales. After 300 years, the main language of communication in all classes had returned to English, and Norman French was in . The Pleading in English Act was introduced in 1362 to stop the use of Norman French in the Courts, so Law French . Many of the legal words had no equivalent in English so their Law French have continued to be used to this day.

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