

Latin for Lawyers:

A Quick and Dirty List of Legal Terms and Concepts

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- Frequently Used Canons of Construction
 - Plain meaning doctrine. Interpret language according to dictionary definitions.
 - (Legislative intent). Try to effectuate the policy goals the legislature intended. (Some might contend that effecting legislative intent is not itself a canon, but rather the *purpose* of the canons of construction).
 - Avoidance canon (a.k.a. “delegation rule”). When language is ambiguous as between constitutional and unconstitutional meanings, favor the interpretation which is consistent with the constitution.
 - *Reductio ad absurdum* (literally: reduction to the absurd). Construe statutes so as to avoid absurd outcomes.
 - *Ejusdem generis* (literally: things of the same kind). When dealing with a list including general and specific terms, the general terms should not extend scope beyond what would include the specific terms. In other words, construe general terms as narrowly as possible without excluding the specific terms. For example, if given the rule “No dogs, cats, or animals allowed in the building,” we should construe “animals” to include other common kinds of pets, but not dust mites or humans.
 - *Noscitur a sociis* (literally: words are known by their neighbors). Interpret an ambiguous word in the context of the statute as a whole. Try to harmonize the meanings of ambiguous words when interpreting ambiguity.

- *In pari materia* (literally: on the same subject). If a statute is unclear, then look at *other statutes* on the same subject to resolve ambiguities. For example, if a manslaughter statute is ambiguous about the meaning of “death,” then you should look to the murder statute (which deals with the same subject matter). If the murder statute provides a clearer definition of “death,” then you should use that definition when interpreting manslaughter also.
 - *Expressio unius est exclusio alterius* (literally: the expression of one thing implies the exclusion of others). Interpret the express mention of one thing to imply the exclusion of unmentioned things. For example, if given the rule “No dogs allowed in the building,” then the implication is that cats *are* allowed in the building (because cats are *not* mentioned). Or suppose that mean girls were throwing a party, and they state only one rule, “nerds not invited.” Then by *expressio unius*, the implication is that any non-nerd is welcome.
 - Rule of lenity. Choose the interpretation which is most favorable to the defendant (only applicable in criminal cases).
- Other Legal Latin Terms
 - *Ratio decidendi* (literally: the reason for the decision). The *direct* justification for the outcome of the case given in a judicial opinion. The *ratio* is a statement of the (putatively) operative *rule* (or meta-rule) which decided a case.
 - *Obiter dictum* (literally: by the way). Other remarks in a judicial opinion made in passing. I.e., the “opposite” of the *ratio decidendi*. If a judicial opinion states a rule, but does not use it to decide *the case at bar*, then it is *dictum*.
 - *Res judicata* (literally: the matter decided). Once a case has been decided and all appeals have been exhausted, the dispute cannot be further litigated. *Res judicata* bars further reconsideration of the same dispute in future cases also.
 - *Stare decisis* (literally: stand by the decision). There are two species of *stare decisis*, which (annoyingly) share the same term. (1) “vertical” *stare decisis* is the principle that lower courts must follow the precedents set by higher courts. (2) “horizontal” *stare decisis* is the principle that a court is bound to follow precedents set by itself (for example, the U.S. Supreme Court is bound to follow precedents set by earlier U.S. Supreme Courts).

- *De novo* (literally: from new). The standard of review in appellate cases on questions of law. The appeals court reviews legal questions *without any deference* to what the lower court decided (on disputes of law). A retrial is sometimes called a “trial *de novo*.”
- *Actus reus* (literally: guilty act). The external/physical elements of a criminal offense.
- *Mens rea* (literally: guilty mind). The internal/mental elements of a criminal offense.
- *In re* . . . (literally: in the matter of). Used in case names when we want to avoid framing the proceeding as adversarial. For example, bankruptcy cases and juvenile criminal cases.
- *Ex parte* (literally: from a side). Used in case names when one of the parties to the dispute was not represented/present. *Ex parte* decisions inherently raise due process concerns, and so they typically only issue temporary orders rather than final judgments.
- *Animus furandi* (literally: the intent to steal).
- *Ab initio* (literally: from the beginning). Used to describe a state of affairs that has existed from the beginning. For example, a contract which was not properly formed is said to be “void *ab initio*.”
- *Habeas corpus* (literally: you will have the body). The right to be released from imprisonment if such detention was not legally justified. A *habeas corpus* petition challenges the legitimacy of a person’s confinement by the state and/or the state’s authority to confine the person.
- Motion *in limine* (literally: at the start). A motion made prior to trial concerning procedure and/or evidence presentable at trial. Usually a motion *in limine* concerns motions to exclude or include evidence. In criminal law, the purposes are commonly to establish what evidence should be excluded so as not to prejudice the jury against the defendant.
- *In terrorem* (literally: into fear). A threat to sue or prosecute. For example, a lawyer’s letter threatening legal action if a person does not comply with some request is referred to as an “in terrorem letter.”
- *Sua sponte* (literally: of their own accord). When a judge takes an action on her own initiative, without a motion by either of the parties to the dispute.

- Non-legal Latin (still useful for to know in law)
 - *Mutatis mutandis* (literally: changing things that have to be changed). When making an analogy, assume changing minor details so that the analogy fits.
 - *Ceteris paribus* (literally: all other things being equal). Assume away any factors which are irrelevant to the point of an illustrative analogy or example.
 - *Inter alia* (literally: among other things). Use this phrase before providing an incomplete list of illustrative examples.
 - *Arguendo* (literally: for the sake of argument). In a hypothetical, we assume certain facts *arguendo*.
 - *Ex ante* (literally: from before). Taking the perspective of a party *before* the occurrence of an event (e.g., an accident, the commission of a crime, or breach of a contract).
 - *Ex post* (literally: from after). Taking the perspective of a party *after* the occurrence of an event.
 - *A fortiori* (literally: from stronger). The full phrase is *a fortiori argumento*. Applying a stronger (more general) argument to establish the soundness of a weaker (more specific) argument.
 - *Ad hominem* (literally: to the person). A fallacious argument where some characteristic of the *arguer* is a premise of the argument. For example, “George is a pharmaceutical representative, therefore his claim that antibiotics treat infections is false,” is an *ad hominem* argument.
 - *Ad populum* (literally: to the people). A fallacious argument where consensus of the community is used as a premise to support a conclusion. For example, “Everyone I know believes that undergraduate education should be free and universally available, therefore undergraduate education should be free and universally available,” is an *ad populum* argument.
 - *De minimis* (literally: the trivial). The full phrase is *de minimis non curat lex* (the law is not concerned with trivialities). Used to refer to factors or quantities which are negligibly small.
 - *Gravamen* (literally: the physical inconvenience). The essence of a complaint or grievance. The main thrust of an argument.