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## Latin and the Law, an Apt Home for a Dead Language

By Larry G. Johnson

The names we give our summer months all come from ancient Rome: June for Juno, queen of the gods; July for Julius Caesar; August for Augustus Caesar; and September for the number seven in Latin, *septem*.<sup>1</sup>

Besides surviving on our calendars, Latin has managed to persist in our legal writing, oral arguments and court decisions, not to mention *Black's Law Dictionary*. One website alone totes up a total of 340 legal words or phrases in Latin that have evaded the language morgue.<sup>2</sup>

### Put Some Salsa Latina into Your Mumbo Jumbo Gumbo

Here are *inter alia* some *ad hoc* phrases you can use *arguendo* in *ex parte* memoranda or *prima facie* cases citing *dicta* in your *amicus curiae* briefs, whether *ad absurdum*, *ad infinitum* or *ad nauseam*, whilst *de novo* pressing *ad hominem* attacks:

1. *Actus regis nemini est damnosa*: "The law will not work a wrong." Surely a handy phrase whenever the prospect of your client losing a case would "work a wrong." Your client could chime in right after you: "You're *damnosa* right!"

2. *Ad proximum antecedens fiat relatio nisi impediatur sententia*: "Relative words must ordinarily be referred to the last antecedent, the last antecedent being the last word which can be made an antecedent so as to give a meaning." Be sure to insert this axiom as a footnote in your briefs whenever you have absolutely no idea whatsoever it is you want to say.

3. Here's one you can use whenever you don't have the facts or the law going your way: *Argumentum ab inconvenienti plurimum valet in lege*: "An argument drawn from inconvenience is forcible in law." Surely a losing argument has to be al-

ways one "drawn from inconvenience," no?

4. *Lex non cogit ad impossibilia*: "The law does not compel a man to do that which is impossible." Something to save for tax time.

5. *Lubricum linquae non facile trahendum est in poena*: "The law tends to overlook rash or inconsiderate language spoken in the heat of the moment." Donald Trump's lawyers are keeping this one in reserve.

6. *Nimia subtilitas in jure reprobatur, et talis certitudo certitudinem confundit*: "Too much subtlety in law is condemned, and too great certainty confounds certainty." Say what? Save this for when you suddenly realize you need to flee the courtroom posthaste; you can do that once everybody else tries to figure out what this means by googling their smartphones.

7. *Sic transit gloria mundi*: "Gloria gets sick riding the bus on Mondays." OK, heh-heh, just checking to see if anyone is still following this. I notice some of you have been dozing off.

### Keeping Folks in the Dark

Here's another Latin phrase for you: *Obscuris vera involvens*: "Shrouding the truth in darkness," coined by Virgil in *The Aeneid* when referring to political figures.<sup>3</sup> That's what all this Latin lingo does, after all, does it not — make obscure legal speak even more obscure? It's just part of the general razzle-dazzle to keep the law mysterious and immune to common sense, "a certainty confounding certainty," eh?

My grandfather said it was a good thing I was going to go to law school, because "soon you can charge \$5 a word." If you make that a Latin word, the price goes to \$10.

The Catholic Church stopped requiring Latin at its masses in the 1960s. In 1967,

the pontifical universities in Rome, where many future church leaders are educated, stopped teaching in Latin.<sup>4</sup>

Yet the use of Latin jargon by lawyers is on the *increase*. A study undertaken using a LEXIS search of 15 Latin phrases to determine their frequency in modern opinions found a greater use of those terms in decisions written after 1950.<sup>5</sup>

I wonder how many lawyers enamored of Latin sprinkles ever actually studied the language. Judging from the way many mangle the pronunciations, I imagine only few lawyers today have.

Somehow, though, just about everyone, lawyer and non-lawyer alike, seems to know what this phrase means: *Illegitimi non carborundum*. Hint: "Don't let the ..."<sup>6</sup>

*Pax vobiscum!* ■

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<sup>1</sup> **Editor's Note:** September was the seventh month when Rome had a 10-month calendar that began in March. It became the ninth month when January and February were added. <https://en.wikipedia.org/wiki/September>

<sup>2</sup> <http://www.dubaime.org/LegalDictionary/Category/LatinLawTermsDictionary.aspx>; the examples cited in the article and their translations are from this source.

<sup>3</sup> <http://eudict.com/?lang=lateng&word=obscuris%20vera%20involvens>

<sup>4</sup> <http://www.reuters.com/article/us-pope-latin-facts-idUSTRE74C2C220110513>

<sup>5</sup> <http://lawdigitalcommons.bc.edu/cgi/viewcontent.cgi?article=2089&context=bclr>

<sup>6</sup> ... bastards grind you down." "Carborundum" is not of Latin origin. The expression was popularized by U.S. General "Vinegar Joe" Stilwell during World War II — [https://en.wiktionary.org/wiki/noli\\_illegitimi\\_carborundum](https://en.wiktionary.org/wiki/noli_illegitimi_carborundum).