

Home / Columns / Does the legal profession still need Latin?

PROFESSIONAL DEVELOPMENT

Does the legal profession still need Latin?

BY MARCEL STRIGBERGER ([HTTPS://WWW.ABAJOURNAL.COM/AUTHORS/64798/](https://www.abajournal.com/authors/64798/))

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Marcel Strigberger.

Does the legal profession still need Latin? For how long? Ad infinitum?

My first exposure to this ancient language was in high school in Montreal. On the first school day, I noticed a neighbor friend of mine, Thomas, dejectedly pacing the street. I asked him what the problem was, and he told me his dad grounded him because, unlike me, he did not choose to take an elective course in Latin. His father was old school, and he wanted Thomas to become a lawyer, insisting that lawyers must know this classical language.

Thomas asked that I speak to his father about this apparent mandatory course for future lawyers. What did I know as a 14-year-old about either lawyers or strange languages? I opted to elect

Latin, as the other option was biology, and I had no interest whatsoever in dissecting preserved frogs. Since I spoke French, a Romance language, I figured I would ace Latin and boost my grade point average.

I recall my first Latin class came out of a book titled *Latin for Today*, and lesson one

depicted a map of ancient Europe. After asking the students to look at the map, there were a number of questions, such as: “Ubi est Britannia?” “Ubi est Gallia?” “Ubi est Hispania?”—and so forth.

I declined Thomas’s invitation to speak to his dad, whose intentions were no doubt bona fide. Even though I did not want to get caught in the middle of this argument, I agreed with Thomas that I did not think this type of information might be of too much use to the legal profession. I eventually had a busy litigation practice, and not once did a client or a judge ever show me a map of ancient Europe and ask me in Latin to pinpoint Gaul.

So why do we deal with Latin? Is it useful? Is there any quid pro quo? I did some googling for Latin legal expressions, and one site had 38 pages of them. Ita vero! (meaning “truly so,” for those of you who opted to study biology instead).

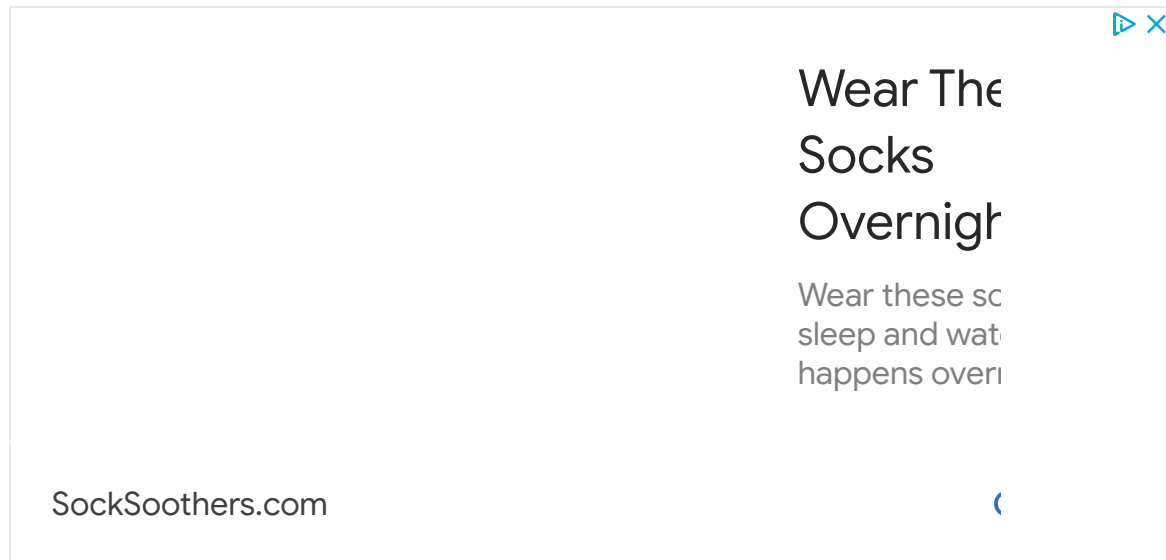
One reason lawyers still use Latin might be to show off. Tell a client who is about to make some dubious move, “Hey Larry, beware,” and your admonition may fall on deaf ears. But say to him, “Hey Larry ... caveat emptor,” and he’ll no doubt respond, “My lawyer knows his stuff; I’m passing.”

I found that younger lawyers tend try to impress listeners with the use of Latin terms more often than our more seasoned colleagues. A newbie lawyer, one Sheldon, who was assisting me on a case, was frequently guilty of this conduct. Once during a meeting with a client in a heated matrimonial case, while I was trying to carefully unravel the issues for our client, one Sergei, of Bulgarian origin, Sheldon jumped in and started a rant which sounded something like this:

“We shall ultimately obtain a divorce decree nisi. However, since you have a marriage contract signed in a foreign locus, our courts should apply the principle of lex loci contractus and, inter alia, we can launch a motion ex parte, de jure, to prevent your wife from dissipating assets. We don’t have to wait ex post facto.”

Sergei was not impressed or amused. He turned to me and exclaimed in equally flourishing language, “Who is this guy? What is he saying?” He then followed this comment up with a couple of words in Bulgarian. Though curious, to this day I never asked Sergei to translate.

I realized I should have held a firmer reign on Sheldon. Mea culpa. Had Sergei bolted, I could have ended up doing work for him pro bono.



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A noted Ottawa lawyer, Eugene M., who is a guru on the subject of lawyers using persuasive language, notes that when writing legal briefs, lawyers are at their best when they don't sound like lawyers. Throughout my practice years, I have taken his advice seriously, and I avoided the use of Latin. OK, I used it de minimis.

I will say that not only lawyers but also judges often throw their weight around trying to impress their audience with their Latin skills. They can get carried away with unexplained jargon. I once witnessed a judge who seemed distracted erroneously give a man 90 days in jail despite the prosecutor agreeing with defense counsel to a fine. The prosecutor immediately rose to make further submissions to honor the deal, pleading for a fine, but the judge smugly said, "I see. However, I cannot change my ruling. I'm 'functus officio.'"

Both lawyers, trying to regain their composure, made brief comments to the judge to reconsider his decision. As well, the man's wife jumped up and pleaded that her husband was the breadwinner for a family of five children. The scene reminded me of *Les Misérables*, where Jean Valjean gets whacked for about 20 years for stealing a loaf of bread.

The gentleman's lawyer, who almost had a cardiac arrest, tried explaining to his shocked client that "functus officio" was a nice Latin phrase, meaning the judge's mandate is over, and he cannot reconsider, though he probably could have but thought he couldn't. The lawyer's subsequent translation for the wife of the phrase did not console her much. I for one did not expect her to say, "Of course, now I get it. Functus officio, that's the law. Oh, well."

I doubt this incident, witnessed by a courtroom full of people, elevated respect for the law. To the judge, functus did trumpus justice.

Lawyers, however, are not the worst offenders. I would say physicians are worse. In addition to employing a stable of Latin words and phrases such as corpus, lingua and aorta, they are also into Greek lingo. They freely fling about words with prefixes such as derma, cardio and ophtha.

Although there may be some Greek words or phrases in the legal world, I cannot think of any offhand. It would not surprise me, however, if my aforementioned client, Sergei, thought Sheldon was speaking Greek.

I am not sure how or why Greek got into the medical jargon. Hippocrates? Maybe in tribute to this iconic physician the medical profession decided to use Greek terms. Lawyers would perhaps have done it too had there been a lawyer version of Hippocrates. I could not find this superlawyer. I suppose, had he existed, maybe he could have represented Socrates. If so, just maybe the lawyer could have worked out a plea bargain and Socrates, instead of being given the hemlock, could have gotten away with a small fine. But no luck.

I spoke to my son Gabriel, who is a public high school math teacher, and he tells me to his knowledge Latin is no longer offered to in the system. Though I believe lawyers should use Latin phrases appropriately and with great discretion, I found that this language gave me a deeper understanding of the English language. I have no regrets for studying it for four years. It was definitely more fun than dissecting frogs.

I don't know whatever happened to Thomas.

*Marcel Strigberger, after 40-plus years of practicing civil litigation in the Toronto area, closed his law office and decided to continue to pursue his humor writing and speaking passions. His book is *Boomers, Zoomers and Other Oomers: A Boomer-biased Irreverent Perspective on Aging* (<https://marcelshumour.com/books>). For more information, visit [Marcel'sHumour.com](https://marcelshumour.com) and follow him at [@Marcel'sHumour](https://twitter.com/Marcel'sHumour) on X, formerly known as Twitter.*

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