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GOODMAN AND CARR LLP



What I Wish I Knew

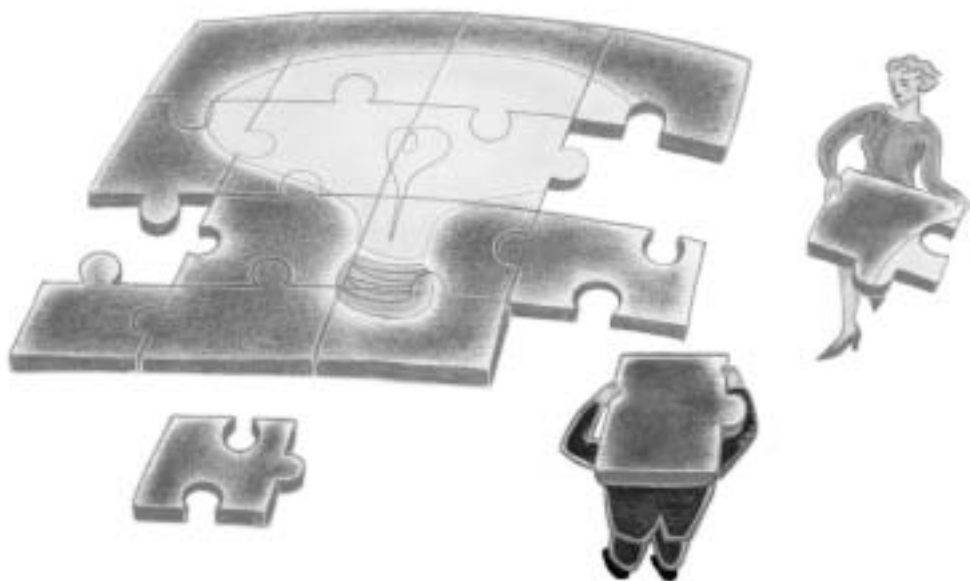
in First Year

LAW SCHOOL

INSIGHTS into
the first year
of law school,
2006

What I Wish I Knew in First Year Law School

INSIGHTS into the first year of law school, 2006



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INTRODUCTION

The summer law students of Goodman and Carr LLP welcome you to your first year of law school. We were in your position less than two years ago, and we remember well both the excitement and anxiety that you may be experiencing. With this in mind, we prepared this Guide for you.



When reading this Guide, keep the following in mind:

- (a) A strong academic performance in first year will open more doors in the future than you may realize. Second-year summer job opportunities, articling positions and permanent associate jobs are inter-related and tied to first year grades.
 - (b) Take advantage of the resources available to you. Talk to your professors and classmates. You can learn from each other.
 - (c) The sooner you figure out the system, the better. You will be more efficient and will have more time to do what you want to do. Whether you choose to use your free time to work at a legal clinic, get deeper into *Waddams on Contracts* or go out with your friends, that time is valuable, so be as efficient as possible.
- Regardless of how you use this guide, remember to trust your strengths. You have made it this far because you have distinguished yourself as a superior student. There is no reason to second-guess yourself now. Trust us, you'll do fine.

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How to Keep up With Your READINGS

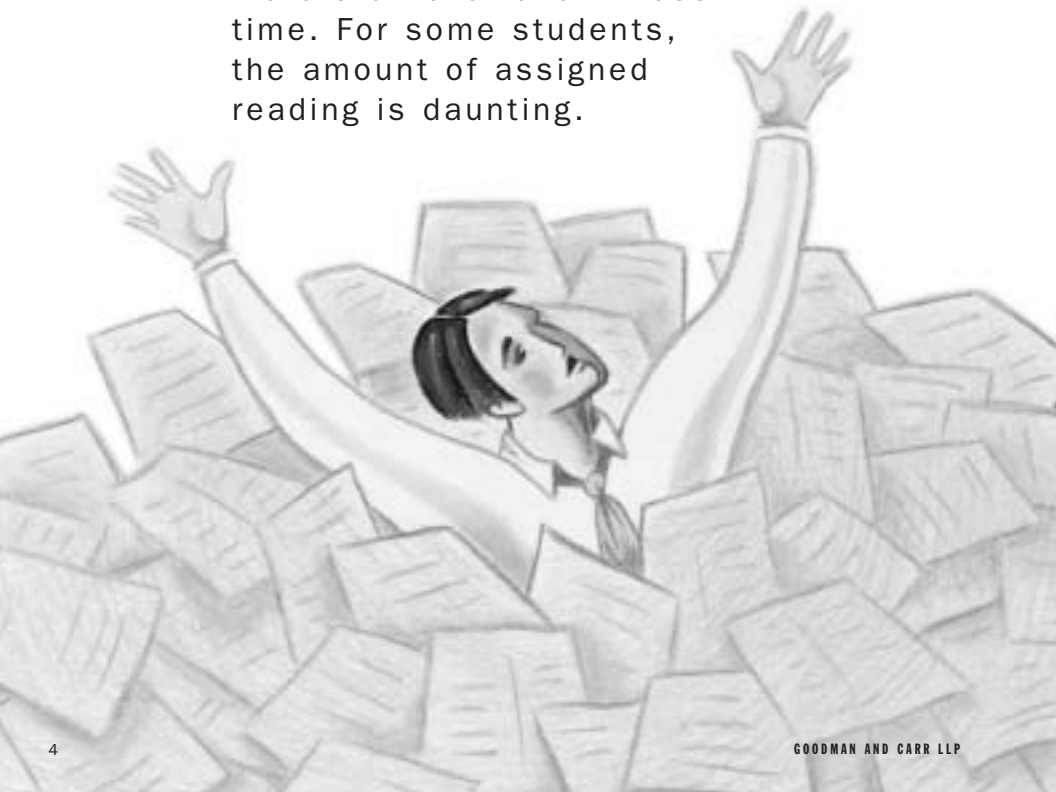
You will be asked to read more than ever and in less time. For some students, the amount of assigned reading is daunting. How much of it you actually do will depend on your choices and your time management skills.

How Much Should a Student Read?

Everyone has an approach to reading that works best for them. There are students who do not feel comfortable unless they have read every page that has been assigned, while others feel quite confident

reading only a portion of the assigned reading. Some students like to read course material before the lecture, while others will review it later. Reading prior to class can help you understand what the professor is discussing during the lecture. However, there will be times where a professor will assign a large amount of reading, only to inform you later that some material is not examinable. Take this into account when determining whether or not to read prior to a lecture.

You will be asked to read more than ever and in less time. For some students, the amount of assigned reading is daunting.



Previous Exams

Looking over old exams can be useful in deciding how much to read. The old exams give you an understanding of the material that the professor is likely to focus on and may save you a great deal of time throughout the semester. They also make great study aids.

Previous Summaries

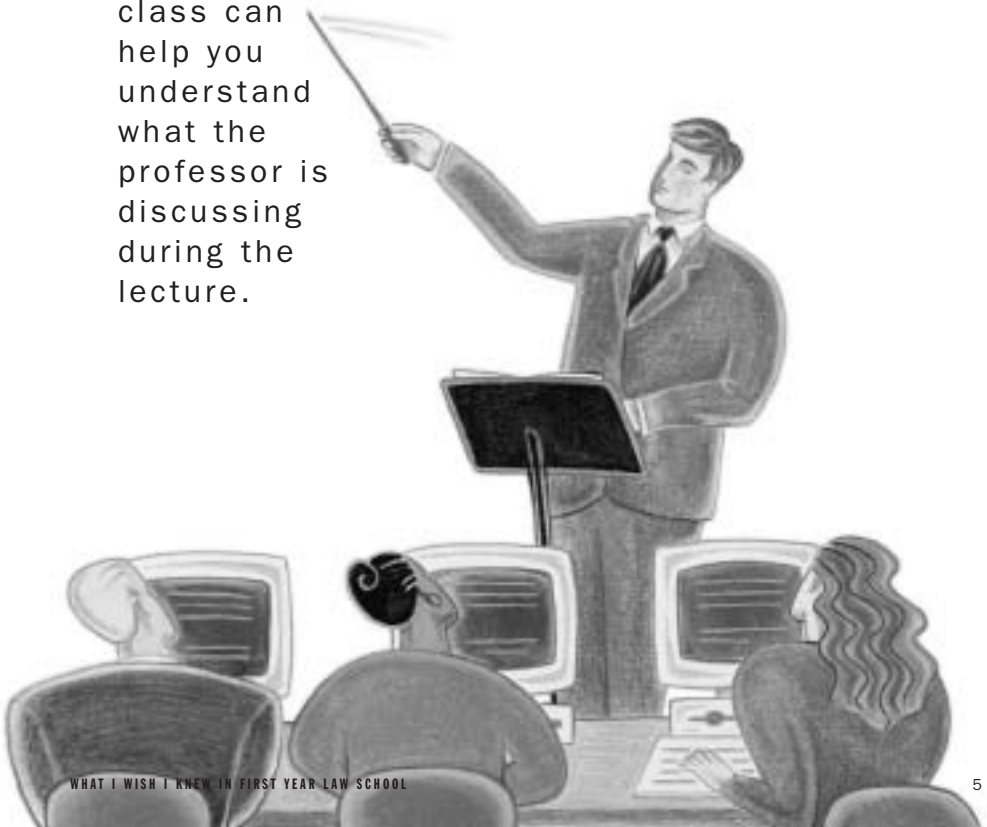
Referring to summaries prepared by students who previously had the same professor can help you understand

assigned readings. Beware — not all summaries are created equal! Some law schools also have websites, MSN links, etc., set up to provide first year students with old summaries. If your school does not, ask an upper year student.

Don't Sweat It

You'll figure it out — everyone does. Two years ago, we were in your shoes. Don't make your life more stressful by unnecessary worry. Initially, you will probably read more than you need to, however, as you become accustomed to law texts and cases, you will be able to read faster and more selectively.

Reading
prior to
class can
help you
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what the
professor is
discussing
during the
lecture.



Using **SUMMARIES** to Make it Through Law School

What is a “Summary” and Why Do I Need One?

Most law school exams are open-book. Students are generally allowed to bring course material along with their own self-prepared study notes. These “notes” are commonly referred to as course “summaries” or “outlines”. While you may be tempted to simply rely upon your class notes, by the end of the year some students will have amassed well over a hundred pages of text. In an exam situation you need to maximize your time spent writing, which means minimizing the time you spend searching; in short — you need a summary.

How Do I Make a Summary?

Step 1. Consolidate

A good summary brings order to the vast amount of information disseminated in each class. Use your class notes as a skeleton, fill in any gaps you might have and clarify points you don’t understand. A typical law school summary will consolidate lecture notes, case summaries and text material. Make sure you don’t miss anything.

Step 2. Organize

Organize in a way that makes sense to you. The course outline is a useful tool as is the table of contents in your textbook. The key is to ensure you know where everything is located and how to find it quickly. Alternatively, some students prefer to use tabs or “Post-It Notes”, to identify key chapters and concepts. Some students use both.



Some students go crazy trying to make their summaries as short as possible. The trick is finding a balance.

Step 3. Edit

Your summary should be a quick reference guide during exams. You will find that there is a trade-off between content length and the ease of finding things quickly. Some students go crazy trying to make their summaries as short as possible. The trick is finding a balance. Your outline can be as detailed as you prefer, as long as you are confident that you will find everything when it counts.

Step 4. Draw Diagrams

Some difficult concepts lend themselves to visual schematics like flow charts and topic checklists. Flow charts help many students visualize the big picture, showing how cases and concepts work together. Creating a flow chart is a great way to make sure you know the material.

Step 5. Presentation

Walking into your exam with a pile of loose papers is a recipe for disaster. Some students choose to have their summaries professionally bound. This costs approximately \$5. Standard binders are another option. Both methods assure that your summary remains organized and doesn't get blown away by a stiff breeze on exam day.

Why Re-invent the Wheel?

Although it seems easy to rely on someone else's hand-me-down summary, to succeed on exams it is important to have your own summary prepared and organized in a way that is understandable to you. You will be rewarded for your efforts. Making an outline is a way to study the material. Investing your study time in creating a solid outline virtually guarantees that you will absorb the material.

Should I Include All the Cases I Read?

First year students are encouraged to summarize all the cases they read for each class. Although this sounds like a great idea, summarizing every case is onerous. If you don't summarize everything, be

selective. The best way to determine the importance of a case, is to attend class and see how much time the Prof spends discussing each case. Cases mentioned in passing may not be worth summarizing at length.

What Do I Include in a Case Summary?

A case summary usually includes the following:

Facts: Relevant facts only. Initially you may be tempted to include every fact. By the end, you will learn that a summary of the key facts will suffice. The real meat of a decision lies in the Court's reasoning process.

Issue(s): A well-crafted account of the issues will show you the basis for the Court's findings as well as the significance of the case.

Holding(s): Restating the decision in your own words helps you understand the case and engages you more actively in the overall learning process.

Ratio (aka Reasoning): Legal principle(s) that applied that shaped the Court's decision. Also, take the time to note who wrote the decision. Often there will be several reasons given by different judges, both in support of the majority opinion and in dissent. While it is tempting to skip the dissent, recognize that dissenting opinions help shape the common law over time.

Although it seems easy to rely on someone else's hand-me-down summary, to succeed on exams it is important to have your own summary prepared and organized in a way that is understandable to you.

When and How to **TAKE NOTES** in Law School

When to Take Notes

Before/After Class

Taking notes while reading is one of the best ways to retain and record important information. It may also be the most time-consuming law school activity that exists. If you have the time, desire and discipline to make these notes, they can be very beneficial. If not, count yourself among the majority of law school students.

During Class

Most law students take lecture notes in some form or another, ranging from verbatim transcripts of the class to point-form observations. There is no right or wrong way; only what you feel comfortable with. That being said, while both sides of the note taking spectrum are fine, you would be well served by keeping somewhere between the two extreme positions.

How to Take Notes

Whether you take notes by hand or on the computer, classroom etiquette boils down to common sense and consideration for others.

Pros and Cons of Writing

Handwriting your notes can be time consuming, and it is virtually impossible to take

verbatim notes using this method. However, a pen and paper can be much less distracting (to you and others) than laptops.

Laptops and Laptop Etiquette

Some students prefer using laptops since information can easily be manipulated into summaries. Electronic notes can be more easily shared, but with the introduction of wireless service into many law school classrooms, beware of distractions such as e-mail, MSN messenger, and the ever dangerous internet. Remember that everyone behind you — including your Prof (if he or she is strolling around the lecture hall) can see your screen. Think twice before reading personal e-mails or displaying content that others may find offensive. Before starting up your laptop, ensure the sound is off; especially if you come to class late and the lecture has begun.

Back It Up

If you use a laptop — back up your notes. You do not want to be known as the law student who lost his/her notes and months of work because of a cranky computer just days before an exam.

Taking notes while reading is one of the best ways to retain and record important information. It may also be the most time-consuming law school activity that exists.

How to Use a Law LIBRARY

Since you have come this far in your university studies, you probably know the library basics fairly well. The law library is not much different. While the staff members are there to help you, they are often busy. The more you can do yourself, the faster you will be able to complete your research. If you think you will need librarian assistance, it is wise to get a head start to give busy librarians a few days to get to your request. This is especially true when first year assignments are handed out.

Main Sections of the Law Library

A law library has 3 main sections:

“Reporters”. This is where you will find actual case law. Some reporters are organized by province, such as the Ontario Reports (O.R.) while others are national, such as the Dominion Law Reports (D.L.R.). Some only report certain topics, like the Family Law Reports (F.L.R.). Cases are also available from online services such as Quicklaw and eCarswell. All law students can use these online services at no charge upon receiving a password from the law school.

“Journals”. This is where you will find academic commentary on cases or legal issues from various perspectives. You can also get some journal articles online. For example, a great online search engine for articles is the Index to Canadian Legal Literature (ICLL), which may be on your library website or in print in the reference area.

“Books”. Books are a great resource for general principles. Distilling principles from cases can be difficult and a book on “Contracts” or “Torts” could get you back on track. The Irwin Law “Essentials” are



There may also be a computer lab in the library, with printers and internet access.

very useful for this, although you should not rely too heavily on these for exams as your professor may not agree with the author’s analysis. Books are also a great resource for paper-writing, and are a much better way to start your research. Too often, students go directly to case reporters, without knowing the leading cases in the field. A good textbook can serve you well by narrowing your search immediately and making your research time more effective.

Additional Library Resources

Your library may have some other useful resources.

There may also be a computer lab in the library, with printers and internet access. There will likely be training offered by library staff to help you learn how to use the various online resources available to law students. Take advantage of these sessions so that when it is time to write your first paper, you won’t have to wait for assistance.



The online databases (Quicklaw, Lexis, Westlaw) have all sorts of “bells and whistles”. These tools can mean the difference between having to search through 200 cases and searching through 15 cases.

Legal research is the art of finding authoritative answers to legal questions. No matter how obscure an issue may be, someone, somewhere has probably considered it. Otherwise, there is certainly an analogous legal philosophy or situation that will help you to answer your question. The art of legal research lies in finding your sources and determining whether they are relevant and valid in the shortest possible time. The following tips should help you in your library adventures:

Define the Issue

Make sure you have all the facts. What areas of law are involved? What are the applicable jurisdictions?

Understand the Issue

Most likely, especially in the beginning, you will not know much about the problem. Secondary sources such as the C.E.D. and the Canadian Abridgement are great tools to use to get the necessary background information. They will also provide you with phrases that are unique to that area of law which are invaluable for online searches.

Learn How to Search Effectively

The online databases (Quicklaw, Lexis, Westlaw) have all sorts of “bells and whistles”. These tools can mean the difference between having to search through 200 cases and searching through 15 cases. Pay attention to the training and don't be afraid to use their help features to craft effective searches.

Make Sure to “Note-Up”

“Noting Up” is the process by which you verify that the cases you have found haven’t been reversed by a later case. This is absolutely essential as an overturned case can obviously not be relied upon and making such a mistake can be embarrassing. These tools (Quickcite, Keycite and Sheppards) can also be used for research as they give you cases that quote the case you are using.

STUDY Groups

Remember that study groups are not for everyone and that it is common for students to feel that they are more efficient when studying alone.

Why are Study Groups Important?

One of the most important reasons for studying in a group is that you realize that your confusion is not unique. There is a calming realization to knowing that other people are also afraid that they will flunk out of law school. Once you get over the initial “I’m dead” fear which most students experience as exams approach, you will work together with your group from the ground up, learning both by listening and by explaining your understanding of the issues. A great sense of camaraderie may also develop.

Reassess Your Research Strategy

A good general rule is that if after 15 minutes you don’t seem to be making any progress, stop and approach the problem from another perspective or simply ask for help.



They are Not for Everyone

Remember that study groups are not for everyone and that it is common for students to feel that they are more efficient when studying alone. There won’t be any hard feelings if you want to leave a group or feel you can study better on your own. Experiment in the first semester to figure out what works for you well before finals.

How to Prepare for and Write a Law School **EXAM**

The first step in exam preparation is to determine the type of exam your professor is planning.

Types of Exams

Open-Book Exams — Traditionally, the most common form of exam in law school. Open-book exams are often more difficult than closed-book exams and require extensive application of legal concepts learned in class rather than memorization and restatement of facts. This is where summaries are crucial, since quick accessibility of course materials is a key factor.

Closed-Book Exams — These are becoming increasingly popular with some first year law Profs. Since the focus is different in a closed-book exam, remember to apply the legal principles rather than simply regurgitating the material.

Take-Home Exams — Likely the least common form of exam. Take-homes are often the most difficult, requiring in-depth analysis and more complicated theories than a typical exam. The duration of take-home exams can range from a few hours to a few days. For short turn around times, take into account travel time to and from home.

Preparation Tips

Know Your Prof

Like everybody else in this world, each professor is a little different. Knowing exactly what a certain Prof expects is impossible. However, you can be aware of the kinds of issues that are important to your Prof. Some only care about the facts, some about the argument, while others find grammar and spelling to be an important element of the exam.

Review Old Exams

Most Profs will put samples of old exams and best student answers on file in the library or administration office. Review the old exams on your own and in groups, so there are no surprises when you actually sit down to write the real thing.

Write the Fail-Safe Exams

Many law schools offer first year students the opportunity to write fail-safe exams after the first semester. This means that if you do better on your final exam in the spring, your grade for the course will not be affected by your fail-safe exam mark (but if you do worse in spring, your fail-safe exam mark can bump up your final grade). While some students opt not to write fail-safe exams, this is your risk-free opportunity to learn exactly what it's like to prepare for and write a law exam.

Relax

Exams tend to be discussed “ad nauseam”. This type of pressure can negatively affect many students. If you feel it starting to get to you, avoid the library or other places where your classmates congregate. Try to keep things in perspective, work hard and everything should work out.

Writing Tips

Time Management

This is probably the single most important factor students must consider when they are writing exams. Many exams are purposely designed to test your ability to

manage time and some are even designed so that you cannot answer all of the questions fully. Determine the mark distribution of each question and allot a proportionate amount of time to write your answer. It is better to have touched on everything than to have answered just one question perfectly. By addressing every question on your exam, you give your professor a chance to reward you for having displayed your knowledge of the entire course.

Don't Regurgitate Your Class Notes

Your Prof isn't interested in seeing that you have dumped your class notes into the exam booklet — he or she wants to see that you understand the material. It is easy to skip over important analytical steps. Remember, it is more important for your Prof to see how you got to your conclusion than simply the fact that you got there. Here is a simple exam writing formula:

- Identify the issue;
- State the relevant law;
- Apply the facts to the law;
- Provide an opinion; and
- Move on.

Argue Both Sides of the Law

The best exam answers show a full and comprehensive knowledge of the law by setting out the arguments for and against the position taken. Unless the question

instructs you to do otherwise, it is not smart to ignore points of law that conflict with your answer. Instead, show your understanding of the complexities of the legal argument you are trying to make. There will rarely be a definitive answer to a question on a law school exam.

Pick a Side

While it is important to argue both sides of the law, professors want to see that you have used your analysis to formulate a conclusion.

Let it Go

When your exam is over, it's over! Many people let the "hangover" from one exam affect the next. There is nothing that can be done about an exam that has already been submitted. It is possible that you did better than you thought. Trust us on this one; the way you feel after an exam often has NO correlation to how well or poorly you did on the exam.

Take-homes are often the most difficult, requiring in-depth analysis and more complicated theories than a typical exam.



What Do Law School **MARKS** Really Mean?

The grades you receive in first year are the most important marks in all of law school in terms of getting an articling position. If you get good marks in your first year, you are in great shape. **Listen closely; a “B” is a good mark.** If you are comfortable with that concept (which most of you are not) there is no need for you to continue reading this section.

So you continued reading, eh? Okay, fine, the deal is this: everyone did well in undergrad to get here and law school is graded on a B curve. Approximately 80% of the students in a class will get in the B range, 10% in the A range and 10% in the C range. What this means is that it’s hard to get an A (it really is — you can check our transcripts if you don’t believe us), but it is much, much harder to get an F. So if you were worried about not surviving law school, don’t worry, if you work hard, you’ll succeed.

What **EXTRA-CURRICULAR** Activities Do Law Schools Offer?

It is important, and often understated, for a law student to become involved in both law and non-law related extra-curricular activities. Remember — there is no need to live your entire life in the law school library. Definitely keep up the activities that you enjoy, but also don’t be afraid to try something new. Besides, building a network of friends who have a blast outside of law school can be a “breath of fresh air” — especially around exam time.

Mastering law school requires an understanding of how to balance all aspects of your life. Think of it as practice for when you enter the profession.

Law Related Activities

Most law schools have a Law Students’ Society or Student Council, which is the governing student body. These organiza-

tions usually oversee various committees, clubs and organizations. Be sure to go to Clubs’ Day and check out all the different ways to become involved. You’ll be surprised as to how many clubs there are, and it’s the perfect way to meet people with similar interests, whether they lie in editing for the Law Journal, playing in a Trivial Pursuit tournament or doing work for Pro Bono Students’ Canada.

Legal Aid

Many first year students volunteer with their school’s Legal Aid Clinic. These clinics are an excellent opportunity to gain first hand, practical experience in a legal environment. They also provide you with the opportunity to network with second and third year students while at the same time enabling you to assist members of the community who would otherwise not be able to receive

needed legal advice. Some students have said that working at a legal aid clinic is the ultimate learning experience.

The Fun Stuff

Contrary to popular belief, law does not have to take over your life in law school. Becoming involved in other activities is a great way to relieve some stress and meet interesting people. If you're interested in sports, be sure to join an intramural team. Attend social events at law school, including fashion shows, talent shows and those

beloved pub crawls. How can we forget to mention Law Games? Don't let the name fool you — competing against law schools from around the country is the closest thing you'll find in Canada to MTV's Spring Break!

Getting involved with extra-curricular activities is the perfect way to network and build long lasting relationships. After all, your peers will be your future colleagues. In a few short years, you'll leave the law school bubble and be faced with the real world. With a good group of friends in the trenches with you, we promise you will survive.



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Appeal, appellant, appellate:

After trial, either the plaintiff or the defendant in the original action can appeal the decision if they believe the case was wrongly decided and if a right of appeal exists. The one who appeals becomes the appellant and the case is heard in an appellate court. Also see “respondent” below.

Articling or Articles:

These terms refer to the practical part of the process of becoming a licensed practitioner of the law. Similar to a work internship, articling is ‘on-the-job’ training. Articles must be completed under the supervision of a lawyer with at least three years experience and who is called to the Bar of the jurisdiction in which the student intends to practice. The duration of articling programs may vary from province to province. Generally, law students apply for articling positions after completing their second year of law school. Also see “Summer Articling” below.

Case Law:

The law as it has been elaborated in cases decided by judges. Contrast with “legislation”.

Civil Code:

A system of codified law (all laws are written down in books) used in Quebec and continental Europe. Contrast with “common law”.

Civil suit (a.k.a. civil action):

A lawsuit relating to the private rights of citizens, not the criminal law.

Common law:

The basis of Commonwealth countries’ systems of law; a legal system in which the law is developed by judges on a case-by-case basis with reference to previously decided cases (see “stare decisis”), rather than from statutes or constitutions.

Covenant:

A promise in a written contract or deed or real property.

Damages:

The amount of money that may be awarded in a lawsuit. Damages may be awarded to compensate the plaintiff for monetary or intangible losses, or occasionally to punish the defendant for their behaviour.

Defendant:

The party against whom the plaintiff brings the action. If unsuccessful at trial, the defendant may be required to pay monetary damages or to respect an injunction. The defendant can also bring a counterclaim against the plaintiff or a cross claim against a third party.



Dissent:

See “minority opinion”.

FIRAC:

A mnemonic device used in some law schools for summaries or exam structure, stands for Facts, Issues, Ratio, Analysis and Conclusion.

Injunction:

An order from the court ordering a person to refrain from doing something.

J:

“Justice”, as in Iacobucci J.(read as “Mr. Justice Iacobucci”). J.A. indicates a judge of the Court of Appeal. C.J.C. indicates the Chief Justice of Canada.

Judicial Consideration:

How judges have interpreted the provisions of a statute in a past case.

Jurisprudence:

Basically a long word for “case law”, or the study of the fundamental elements of a particular legal system.

Legislation (a.k.a. statutory law):

A law or body of laws, usually written and proclaimed as “Acts” such as the Family Law Act or the Insurance Act. This type of law is different from case law, and legislation can always be passed to override the case law.

Legislature:

The branch of government responsible for making legislation, e.g. the federal legislature is Parliament.

Majority Opinion:

When more than half the judges concur in an opinion.

Minority Opinion:

When one or more judges disagree with the opinion of the majority, a.k.a. dissenting opinion.

Moot:

In law school, a fictitious hearing in which students argue points of law.

Note Up (a.k.a. update):

To search the case law to see how a given case has been treated since it was decided and whether it has been reversed by a higher court.

O.C.I.:

Stands for “On Campus Interviews”. These are 20 minute interviews conducted by potential employers for summer student positions. Despite the name, they are not always conducted on campus (so don’t be confused if your OCIs are at the Toronto Convention Centre).

Plaintiff:

The person who initiates a civil suit.

Person:

Not always what you think! Also includes corporations.

Precedent:

A previously decided case by an appellate court that establishes the legal rule to be followed in later cases having similar facts or issues.

Quash:

To annul or set aside.

“R.”:

Regina: The Queen.

Respondent:

When there is an appeal, the party that did not initiate the appeal becomes the respondent. See “appellant”.

Reversal:

When an appellate court overturns a lower court’s decision.

Summering (summer student):

Like articling above, a summer student position is an internship with on-the-job training, generally done during the summer after the second year of law school.

Summer positions are usually obtained during OCl’s (see above) and can often secure an articling offer from the firm. Summering allows a student to experience life in a firm before articling and offers exposure to the practical side of the legal profession.

Tort:

A civil wrong or a wrongful act, whether intentional or accidental, that results in injury to another. A tort occurs when one owes a duty to another (e.g., the duty to take reasonable precautions) but breaches that duty, resulting in harm to the other.

Statute:

A law passed by a legislature.

Style of Cause:

The name of the case, as in “R. v. Morgenthaler”.

“v”:

Means “versus” but is read as “and” in civil cases.

Voir Dire:

A preliminary examination of prospective jurors or witnesses under oath to determine their competence or suitability.



While the Latin language has been extinct for many years, the legal community has its fingers crossed that a comeback is just around the corner.

Latin 101

While the law clings desperately to Latin, you can cling desperately to this list of common Latin phrases, cheerfully collected by Goodman and Carr summer students.

Ab initio:

Latin for “from the beginning”.

Actus reus:

Sometimes called the external elements of a crime, it is Latin for the “guilty act”.

Amicus curiae:

Latin for a “friend of the court”. When an important or difficult point is being argued in an adversarial system of law but one part of the argument is inadequately explored the Court may appoint an Amicus curiae to ensure that that part of the argument is addressed.

Bona fide:

Latin for “in good faith”.

De Minimis:

Trifling or minimal; A fact or thing so insignificant that a court may overlook it in deciding an issue or case.

De Novo:

In law, the expression trial *de novo* literally means “new trial”.

Forum non conveniens:

Latin for “inconvenient forum” or “inappropriate forum”.

Ibid:

The term used to provide an endnote or footnote citation or reference for a source that was cited in the last endnote or footnote.

Inter Alia:

Latin term for “among other things.” Used in pleadings before a court or opinions of a court. i.e., “The defendant claims, *inter alia*, that the plaintiff fails to establish . . .”

Obiter Dictum:

Latin for “by the way”. It is a remark or observation made by a judge that, while included in the body of the court’s opinion, does not form a necessary part of the court’s decision. Under the doctrine of *stare decisis*, *obiter dicta* are not binding although they can be very persuasive.

Per curiam:

A term used when all the judges of an appellate court concur in the decision and the individual judge who wrote the opinion is not identified.

Prima facie:

Latin for “At first sight.” Self-evident; obvious. A prima facie case is where the plaintiff presents enough evidence to win outright barring any defences or additional evidence presented by the defendant.

Res Ipsa Loquitur:

Latin for “the thing speaks for itself”.

Res judicata:

From “res iudicata” — Latin for “a thing decided”, Res judicata is a common law doctrine meant to bar relitigation of cases between the same parties in court.

Stare decisis:

Latin term meaning “to stand by things decided”. It is used in common law to express the notion that prior court decisions must be recognized as precedents, according to case law.

Supra:

Latin for “above”, used when the citation for a court decision or any other material has been previously cited within the document.

Ultra vires:

Latin phrase that literally means “beyond the power.” Its inverse is called *intra vires*, meaning “within the power”.

NOTES

This image shows a full page of a worksheet designed for handwriting practice. It consists of numerous horizontal dashed lines spaced evenly across the page, providing a guide for letter height and placement. There are no margins, text, or other markings present.



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