

CAMBRIDGE

Professional English



International Legal English

SECOND EDITION

A course for classroom or self-study use

Amy Krois-Lindner
and

TransLegal[®]

Suitable preparation for the
International Legal English Certificate (ILEC)

CAMBRIDGE UNIVERSITY PRESS

Cambridge, New York, Melbourne, Madrid, Cape Town,
Singapore, São Paulo, Delhi, Mexico City

Cambridge University Press

The Edinburgh Building, Cambridge CB2 8RU, UK

www.cambridge.org

Information on this title: www.cambridge.org/9780521279451

© Cambridge University Press 2011

This publication is in copyright. Subject to statutory exception
and to the provisions of relevant collective licensing agreements,
no reproduction of any part may take place without the written
permission of Cambridge University Press.

First published 2006

This edition 2011

3rd printing 2013

Printed in Italy by L.E.G.O. S.p.A.

A catalogue record for this publication is available from the British Library.

ISBN 978-0-521-27945-1 Student's Book with Audio CDs

ISBN 978-0-521-27946-8 Teacher's Book

Cambridge University Press has no responsibility for the persistence or
accuracy of URLs for external or third-party internet websites referred to in
this publication, and does not guarantee that any content on such websites is,
or will remain, accurate or appropriate.

Introduction

Who is *ILE* for?

International Legal English Second edition (ILE) is an upper-intermediate to advanced-level course for learners who need to be able to use English in the legal profession. The course is intended for law students and practising lawyers alike. The book has been written to prepare candidates for the International Legal English Certificate (ILEC) examination developed by Cambridge ESOL and TransLegal, but it can also be used effectively in legal English courses of all kinds. *ILE* is suitable for both self-study and classroom use.

What kind of legal English does it deal with?

Since the vast majority of practising lawyers in the world deal with commercial law, *ILE* focuses on the use of English for this purpose. Within the field of commercial law, a number of important topics (such as company law, contract law, intellectual property, real property law, employment law and sale of goods, to name a few) have been selected as the legal subject matter of the units. Particular emphasis is placed on the areas of company law and contracts – with three units dedicated to each – as the majority of commercial lawyers practise in these areas.

The authors of *ILE* are well aware that most students using the book need to be able to provide advice regarding their own legal system in English as opposed to mastering US or UK legal concepts. Thus, while the legal concepts introduced in this book are those found in the legal systems of the UK and the USA, it also includes texts about legal matters in other countries and legal systems. It is important to emphasise that nearly all of the legal concepts covered are found in legal systems and jurisdictions the world over. Since many of the tasks encourage you to compare aspects of the law in your own jurisdiction with those presented in the book, an international perspective is fostered. This second edition includes a new unit called *Transnational commercial law*, as this term has increasingly been accepted by the legal community. It is an area of law which focuses on the complex issues that international business lawyers deal with in English on a daily basis.

Law vs. language

It is important to bear in mind that *ILE* is intended to help law students and lawyers learn English in a legal context and to prepare for the ILEC exam. Therefore, *ILE* should only be used for the purpose of learning legal English and should not be relied upon for legal advice or assistance in the practice of law.

How is *ILE* organised?

ILE consists of 16 units.

Unit 1 gives you an introduction to basic legal concepts in English, with a focus on general aspects of the legal system as well as specific matters connected with a career in the law.

Units 2–16 each deal with a different area of commercial law.

Each unit begins with a reading text which provides you with an overview of the topic area in question. These overview texts introduce crucial legal concepts while presenting a variety of relevant vocabulary in the topic area. The main concepts covered in this text appear in bold, meaning that they appear in the Glossary booklet. In the main body of each unit, there are various types of authentic text material of the kind commonly encountered by practising lawyers in their work. These texts, both written and spoken, are accompanied by a wide range of tasks, all designed to build the core skills of reading, writing, listening and speaking.

At the end of each unit, there is a link to an online task which is intended to improve your online legal English research skills. Each of the 16 tasks presents an authentic language problem that a commercial lawyer may encounter while at work. You are then shown a research strategy, using the Internet, that leads you to a solution to the problem.

The final part of each unit is the Language focus section, which contains exercises on the vocabulary and language topics covered in the unit. This section offers an opportunity to consolidate the language work done in the unit.

Interspersed at intervals through the book, there are six legal case studies based on actual cases, featuring text material of the kind lawyers need to consult when preparing a case. This edition includes three new case studies which have an international focus. The purpose of these case studies is to provide an opportunity to apply the language skills developed in the main units to authentic communicative tasks.

Following the main units, there is an Exam focus section, which explains what kinds of task appear in the ILEC exam. (See **How does the course help you to prepare for ILEC?** on the next page.) At the back of the book, you will find the Audio transcripts of all the listening exercises, as well as the Answer key to the exercises. There is also an index to help you find your way around the book and a separate Glossary booklet containing all the legal terms which appear in bold in the units.

What are the aims of the course?

- To improve your ability to write common legal text types in English, such as letters or memoranda.
- To improve your ability to read and understand legal texts, such as legal periodicals, commercial legislation, legal correspondence and other commercial-law documents.
- To increase your comprehension of spoken English when it is used to speak about legal topics in meetings, presentations, interviews, discussions, etc.
- To strengthen your speaking skills and to enable you to engage more effectively in a range of speaking situations typical of legal practice, such as client interviews, discussions with colleagues and contract negotiations.
- To familiarise you with the kinds of task you will encounter in the ILEC examination and improve your performance on these tasks.
- To introduce you to some of the language-related aspects of the work of a commercial lawyer.

How does the course achieve these aims?

To achieve these aims, the course focuses on several aspects of legal English at the same time. These aspects include 1) the analysis and production of authentic legal texts, 2) language functions common to legal texts, and 3) vocabulary learning that goes beyond mere terminology acquisition, and which takes larger chunks of language into account.

The written and spoken texts in each unit have been chosen to represent a wide range of text types in use in legal contexts. These include texts which lawyers have to produce, read or listen to, such as letters of advice, proposals, client interviews or presentations. In each unit, the typical structure of a text type is analysed and the text type broken down into its constituent parts. You are encouraged to identify these parts, and to recognise the language functions typically used in each of these parts of a text. (The term 'language function' refers to phrases which express a specific meaning in a text; for example, the language function of 'suggesting' can be expressed with phrases like *I'd recommend . . .* or *Why don't you . . .*?) The result is a kind of template of a common legal text type. Equipped with this template and with useful language functions, you are then given the opportunity to produce such a text, for example by writing a letter or email, by taking part in a role-play interview, or by discussing a legal issue.

While a selection of legal terminology in each legal topic area is presented in every unit, mastering legal English requires more than simply improving your knowledge of specialised vocabulary. For this reason, every unit includes exercises that focus on larger chunks of language, common phrases and word combinations that are not specialised legal terms, but which are necessary for successful communication.

What is the ILEC exam?

The International Legal English Certificate Examination (ILEC) is the world's first and only internationally recognised test of legal English. ILEC has been developed to test the ability of lawyers to use English for professional purposes. It is a test of language, and not a test of legal knowledge. The examination is a product of the collaboration of TransLegal, Europe's leading firm of lawyer-linguists, and Cambridge ESOL, producer of the world's leading certificates in English.

The ILEC examination is primarily intended for law students and young lawyers at the beginning of their legal careers. It provides legal employers with an accurate means of assessing the legal English skills of job applicants, while offering law students and young lawyers a means of proving their legal English skills to prospective employers. The ILEC certificate is recognised by leading law firms, university law faculties, language centres, lawyer associations and government employers.

For more information about the ILEC exam, visit www.legalenglishtest.org.

For more information about TransLegal, visit www.translegal.com

How does the course help you to prepare for ILEC?

ILE offers thorough and systematic preparation for the ILEC exam. The topic areas in commercial law featured in the units are all topic areas to be found in the ILEC exam. Thus you are given the

opportunity to become familiar with important subject-specific vocabulary. As the texts in the book represent the kinds of text that are found in the exam, you will be well prepared to deal with the texts in the actual exam. Furthermore, since some of the exercises in the book are modelled on the tasks found in the ILEC exam, you can become familiar with these tasks. Beyond this, all of the exercises in the book are intended to strengthen the fundamental language skills you need to succeed in the exam.

The Exam focus section of the book is specifically intended to prepare you for the exam. This section covers each of the four parts of the ILEC examination – Reading, Listening, Writing and Speaking – and introduces the individual exam tasks in detail. An example of each task is provided, along with a complete explanation of what the candidate is expected to do, what skills the task in question is designed to test, as well as what the candidate should bear in mind while working on each task. These tips are intended to help you avoid common pitfalls and improve your performance in the exam.

Finally, this second edition includes a new ILEC practice test. The practice test which appeared in the first edition can be found online at www.cambridge.org/elt/ile2. These sample papers offer you the opportunity to test your legal English skills and to prepare for the exam by simulating the test experience.

How can *ILE* be used for self-study?

If you are using the book for self-study, how you proceed through the book will depend on your goals and the amount of time and effort you wish to devote to the study of legal English.

If you wish to improve your command of legal English for general work or study-related purposes and are willing to devote several weeks of concentrated study to the task, it is recommended that you proceed through the book from beginning to end.

However, if you are planning to take the ILEC examination and would like to improve your legal English more quickly, you should work through the Exam focus section first in order to get an idea of the requirements of the exam. You can then consult the contents grid on pages v–vii to locate the topics, tasks and skills you need to work on.

Whatever your goals might be, bear in mind that the Glossary booklet and the Answer key are provided to help make your self-study easier. Note that sample answers for all of the writing tasks are provided and that legal terms found in the Glossary booklet appear in bold throughout the book.

Naturally, the speaking tasks will be more difficult to carry out when you are working through the course on your own. However, when given the task of preparing a presentation, it is a good idea to prepare and to hold the presentation. You may be able to find an audience to listen to you and offer constructive criticism. If possible, record yourself giving the presentation and listen back to it, noting areas for improvement. Discussion activities and role-plays pose an even greater challenge when you are working on the course on your own. However, you should not miss them out altogether. Look at the discussion activity and decide what you would say in this discussion. Say your ideas aloud. Then try to think what an opposing view might be and say this aloud as well. Pay close attention when listening to the discussions on the CD to how people offer opinions, agree and disagree. Practise these phrases aloud. Of course, the ideal solution is to ask a friend or colleague to discuss these questions with you. Above all, enjoy using *ILE*!

Contents

	Reading	Listening	Writing and Speaking	Language
Unit 1 The practice of law page 8	A Bodies of law B The adversarial and inquisitorial systems C Types of law D Types of court E Persons in court F Legal Latin	A Documents in court B Lawyers C Legal education D Law-firm structure E Practice areas F Law-firm culture	Speaking A Explaining what a law says B Civil-court systems C Legal education D Describing a law firm	
Unit 2 Company law: company formation and management page 20	A Introduction to company law B A memorandum of association C Russian entity formation D Corporate governance	A Company formation B Forming a business in the UK	Writing A letter of advice Speaking An informal presentation: a type of company	<ul style="list-style-type: none"> ○ Key terms: Roles in company management ○ Language use: <i>Shall</i> and <i>may</i> ○ Text analysis: A letter of advice
Unit 2 Language focus page 32				
Unit 3 Company law: capitalisation page 34	A Introduction to company capitalisation B Shareholders and supervisory boards C New legislation – share capital development in Bulgaria	A A rights issue B Plain language	Writing Summarising Speaking Paraphrasing and expressing opinions	<ul style="list-style-type: none"> ○ Key terms: Shares ○ Language use A: Contrasting information ○ Language use B: Common collocations (verb plus noun) ○ Text analysis: Understanding legalese
Unit 3 Language focus page 46				
Unit 4 Company law: fundamental changes in a company page 48	A Introduction to changes in companies B Spin-offs C The minutes of a meeting D Shareholder rights	A Explaining legal aspects of an acquisition B A checklist	Writing Standard phrases for opening and closing letters and emails Speaking Presenting a spin-off	<ul style="list-style-type: none"> ○ Key terms: Opposing concepts in company law ○ Text analysis: Beginning a presentation ○ Language use A: Explaining a procedure ○ Language use B: Collocations
Unit 4 Language focus page 60				
Case study 1: Company law page 62				
Unit 5 Contracts: contract formation page 64	A Introduction to contract formation B A covenant C Adapting a contract template	A Negotiating B Contract negotiation	Writing A An informative memo B Adapting a contract template Speaking A Paraphrasing clauses B Negotiating an agreement	<ul style="list-style-type: none"> ○ Key terms: Defences to contract formation ○ Text analysis: Understanding contracts ○ Language use A: Giving emphasis ○ Language use B: Negotiating expressions ○ Language use C: Adverbs
Unit 5 Language focus page 76				
Unit 6 Contracts: remedies page 78	A Introduction to contract remedies B Liquidated damages C Understanding contract clauses D Types of breach	A A Danish remedy B Remedies	Writing Follow-up correspondence to a client Speaking A Contract remedies B Interviewing a client	<ul style="list-style-type: none"> ○ Key terms: Types of damages ○ Language use A: Talking about court actions and rulings ○ Language use B: Using repetition to aid understanding ○ Text analysis: Initial interview with a client
Unit 6 Language focus page 90				
Case study 2: Environmental law page 92				

	Reading	Listening	Writing and Speaking	Language
Unit 7 Contracts: assignment and third-party rights page 94	A Introduction to contract assignation B Understanding contract clauses C A follow-up email D A closing argument E Keeping informed	A Preparing a lawsuit and developing an argument B A closing argument	Writing A memo giving advice Speaking A Explaining third-party rights B Emphatic stress C Discussing and evaluating sources of information	<ul style="list-style-type: none"> ○ Key terms: Contracts ○ Language use A: Nouns ending in <i>-or</i> and <i>-ee</i> ○ Language use B: Verb + <i>-ing</i> form ○ Text analysis: Persuasive writing and speaking ○ Language use C: Phrases referring to evidence ○ Language use D: Informal style
Unit 7 Language focus page 106				
Unit 8 Employment law page 108	A Introduction to employment law B A sex-discrimination case C A justified dismissal D Unfair dismissal	A An employment tribunal claim B Liability risks	Writing A Attachments and formality B Advising on advantages and disadvantages in an email Speaking Agreeing and disagreeing	<ul style="list-style-type: none"> ○ Key terms: Employment ○ Language use A: Expressing an opinion, agreeing and disagreeing ○ Language use B: Participle clauses with <i>-ing</i>
Unit 8 Language focus page 120				
Unit 9 Sale of goods page 122	A Introduction to sale of goods legislation B Retention of title	A Legal writing seminar on drafting clauses B A case brief	Writing and Speaking Presenting a case brief	<ul style="list-style-type: none"> ○ Key terms: Sale of goods ○ Language use A: Terms and conditions of sale ○ Text analysis: A case brief ○ Language use B: Talking about corresponding laws and institutions
Unit 9 Language focus page 132				
Case study 3: Contract law page 134				
Unit 10 Real property law page 136	A Introduction to property law B A law firm's practice areas C Understanding a lease or tenancy agreement D A case review E A reference email	A Easements B Buying a house in Spain	Writing A Describing a firm's practice areas B Summarising and requesting Speaking A An aspect of real property law B A case discussion	<ul style="list-style-type: none"> ○ Key terms: Parties referred to in real property law ○ Language use A: Contrasting ideas ○ Language use B: Classifying and distinguishing types or categories ○ Language use C: Giving a presentation – structuring and signalling transitions
Unit 10 Language focus page 148				
Unit 11 Intellectual property page 150	A Introduction to intellectual property B The State Street case C Business method patents D Trade-mark statutes	A Training of junior lawyers B Discussing issues – copyright and fair use	Writing Notes for a case brief Writing and Speaking Paraphrasing in plain language Speaking Phrases for discussions	<ul style="list-style-type: none"> ○ Key terms: Intellectual property ○ Text analysis: Discourse markers as sentence openers
Unit 11 Language focus page 162				
Case study 4: Intellectual property law page 164				

	Reading	Listening	Writing and Speaking	Language
Unit 12 Negotiable instruments page 166	A Introduction to negotiable instruments B A promissory note C Legislation governing electronic negotiable instruments	A Drafting a promissory note B Advice from a senior partner	Writing A Summarising requirements B Providing advice and making suggestions Speaking A Describing the legal situation: usury B Explaining ideas to a client	○ Key terms: Negotiable instruments ○ Language use: Making suggestions and recommendations
Unit 12 Language focus page 176				
Unit 13 Secured transactions page 178	A Introduction to secured transactions B A security agreement C A seminar on revised legislation D An internal email E An unsettled area of the law	A Creating a security interest B Intellectual property in secured transactions	Writing A polite refusal Speaking Requesting and presenting information	○ Key terms: Comparing and contrasting concepts ○ Language use A: Anticipating events and planning contingencies ○ Text analysis: Formality / Adverb-verb collocations ○ Language use B: Requesting information
Unit 13 Language focus page 190				
Unit 14 Debtor-creditor page 192	A Introduction to debtor-creditor B Statutes governing attachment C A career as an insolvency practitioner D Job opportunities in insolvency E Making a case	A Protecting assets from judicial liens B A job interview	Writing A A covering letter B A thank-you note Speaking A Discussing insolvency work B A job interview C Discussion on restructuring	○ Key terms: Types of lien ○ Text analysis: A covering letter
Unit 14 Language focus page 204				
Case study 5: Transnational insolvency law page 206				
Unit 15 Competition law page 208	A Introduction to competition law B Anti-competitive activities and antitrust measures C A cartel case in China D Report on changes in merger regulation	A Advising on competition law risks B Merger control	Writing A Using passive constructions B A proposal C An informative email Speaking Giving opinions: a competition-law case	○ Key terms: Anti-competitive activity ○ Language use: Warning a client of risks ○ Text analysis: A proposal
Unit 15 Language focus page 220				
Unit 16 Transnational commercial law page 222	A Introduction to transnational commercial law B Conflict of laws in private international law C An article from the CMR	A Drafting arbitration clauses B A cross-border dispute	Writing A Planning the contents and structure of a letter B Textual transformation Speaking A short presentation	○ Key terms: Terms from transnational commercial law ○ Text analysis: Cohesion
Unit 16 Language focus page 232				
Case study 6: Transnational commercial law page 234				

Exam focus page 236

ILEC practice test page 258

Audio transcripts page 278

Role cards page 301

Answer key page 303

Index page 331

Acknowledgements page 336

PART I: THE LEGAL SYSTEM

1 Reading A: Bodies of law

1.1 Read the excerpts below from the course catalogue of a British university's summer-school programme in law and answer these questions.

- 1 Who is each course intended for?
- 2 Which course deals with common law?
- 3 Which course studies the history of European law?

A

LAW 121: Introduction to English law

This course provides a general overview of English law and the common-law system. The course will look at the sources of law and the law-making process, as well as at the justice system in England. Students will be introduced to selected areas of English law, such as criminal law, contract law and the law of torts. The relationship between the English common law and EC law will also be covered.

The course is designed for those international students who will be studying at English universities later in the academic year. Other students with an interest in the subject are also welcome to attend, as the contact points between English law and civil law are numerous. The seminars and all course materials are in English.

B

LAW 221: Introduction to civil law

More individuals in the world solve their legal problems in the framework of what is called the civil-law system than in the Anglo-Saxon case-law system. This course will introduce students to the legal systems of Western Europe that have most influenced the civil-law legal systems in the world. It aims to give students an insight into a system based on the superiority of written law. The course will cover the application and development of Roman law in Europe to the making of national codes all over the world.

The course is intended to prepare students who are going to study in a European university for the different approaches to law that they are likely to face in their year abroad.

1.2 Match these bodies of law (1–3) with their definitions (a–c).

- | | |
|--|--|
| <ol style="list-style-type: none"> 1 civil law 2 common law 3 criminal law | <ol style="list-style-type: none"> a area of the law which deals with crimes and their punishments, including fines and/or imprisonment (also penal law) b 1) legal system developed from Roman codified law, established by a state for its regulation; 2) area of the law concerned with non-criminal matters, rights and remedies c legal system which is the foundation of the legal systems of most of the English-speaking countries of the world, based on customs, usage and court decisions (also case law, judge-made law) |
|--|--|

1.3 Complete the text on the next page contrasting civil law, common law and criminal law using the words in the box.

based on	bound by	codified	custom	disputes	legislation
non-criminal	precedents	provisions	rulings		

The term 'civil law' contrasts with both 'common law' and 'criminal law'. In the first sense of the term, civil law refers to a body of law **1)** written legal codes derived from fundamental normative principles. Legal **2)** are settled by reference to this code, which has been arrived at through **3)** Judges are **4)** the written law and its **5)**

In contrast, common law was originally developed through **6)**, at a time before laws were written down. Common law is based on **7)** created by judicial decisions, which means that past **8)** are taken into consideration when cases are decided. It should be noted that today common law is also **9)**, i.e. in written form.

In the second sense of the term, civil law is distinguished from criminal law, and refers to the body of law dealing with **10)** matters, such as breach of contract.

1.4 Which body of law is the basis of the legal system of your jurisdiction?

2 Reading B: The adversarial and inquisitorial systems

A further difference between the civil-law system and the common-law system lies in the way proceedings are conducted.

2.1 Read the text below comparing the two systems and answer these questions.

- 1 Which system is characteristic of common-law countries?
- 2 How does the way evidence in a trial is gathered and presented differ in the two systems?
- 3 What is the role of the attorney in each system?
- 4 In your opinion, which system is best suited for arriving at the truth?

The inquisitorial system, which is employed in most civil-law jurisdictions, can be defined by comparison with the adversarial system used in the United States and Great Britain. In the adversarial system, two or more opposing parties gather evidence and present it, and their arguments, to a judge or jury. The judge or jury knows nothing of the litigation until the parties present their cases to the decision-maker. Furthermore, in a criminal trial, for example, the defendant is not required to give testimony.

In the inquisitorial system, the presiding judge is not a passive recipient of information. Rather, he or she is primarily responsible for supervising the gathering of the evidence necessary to resolve the case. He or she actively steers the search for evidence and questions the witnesses, including the respondent or defendant. Attorneys play a more passive role, suggesting routes of inquiry for the presiding judge and following the judge's questioning with questioning of their own. Attorney questioning is often brief because the judge tries to ask all relevant questions. The goal of both the adversarial system and the inquisitorial system is to find the truth. But the adversarial system seeks the truth by pitting the parties against each other in the hope that competition will reveal it, whereas the inquisitorial system seeks the truth by questioning those most familiar with the events in dispute. The adversarial system places a premium on the individual rights of the accused, whereas the inquisitorial system places the rights of the accused secondary to the search for truth.

2.2 Underline the verbs in the text above that appear with the nouns below (1–3). Then combine the verbs in the box with the three nouns to make word partnerships. Some of the verbs go with more than one noun.

dismiss	gather	give	hear	present	provide	recant
reject	support	uncover				

- 1** evidence **2** testimony **3** arguments

2.3 Make sentences about the role of the judge in the inquisitorial system and the role of the attorney in the adversarial system using some of the verb–noun collocations from Exercise 2.2.

4 Speaking A: Explaining what a law says

There are several ways to refer to what a law says. Look at these sentences:

The law **stipulates that** corporations must have three governing bodies.

The law **provides that** a witness must be present.

The patent law **specifies that** the subject matter must be 'useful'.

These verbs can also be used to express what a law says:

The law **states / sets forth / determines / lays down / prescribes that ...**

Choose a law in your jurisdiction that you are familiar with and explain what it says using the verbs listed in the box above.

5 Reading D: Types of court

Courts can be distinguished with regard to the type of cases they hear.

Match each of these types of court (1–9) with the explanation of what happens there (a–i).

1 appellate court (or court of appeals, appeals court)

2 crown court

3 high court

4 juvenile court

5 lower court (or court of first instance)

6 magistrates' court

7 moot court

8 small-claims court

9 tribunal

a This is where a person under the age of 18 would be tried.

b This is the court of primary jurisdiction, where a case is heard for the first time.

c This is where small crimes are tried in the UK.

d This is where law students argue hypothetical cases.

e This is where a case is reviewed which has already been heard in a lower court.

f This is where cases involving a limited amount of money are handled.

g This is where serious criminal cases are heard by a judge and a jury in the UK.

h This is where a group of specially chosen people examine legal problems of a particular type, such as employment disputes.

i This is usually the highest court in a jurisdiction, the court of last resort.

6 Speaking B: Civil-court systems

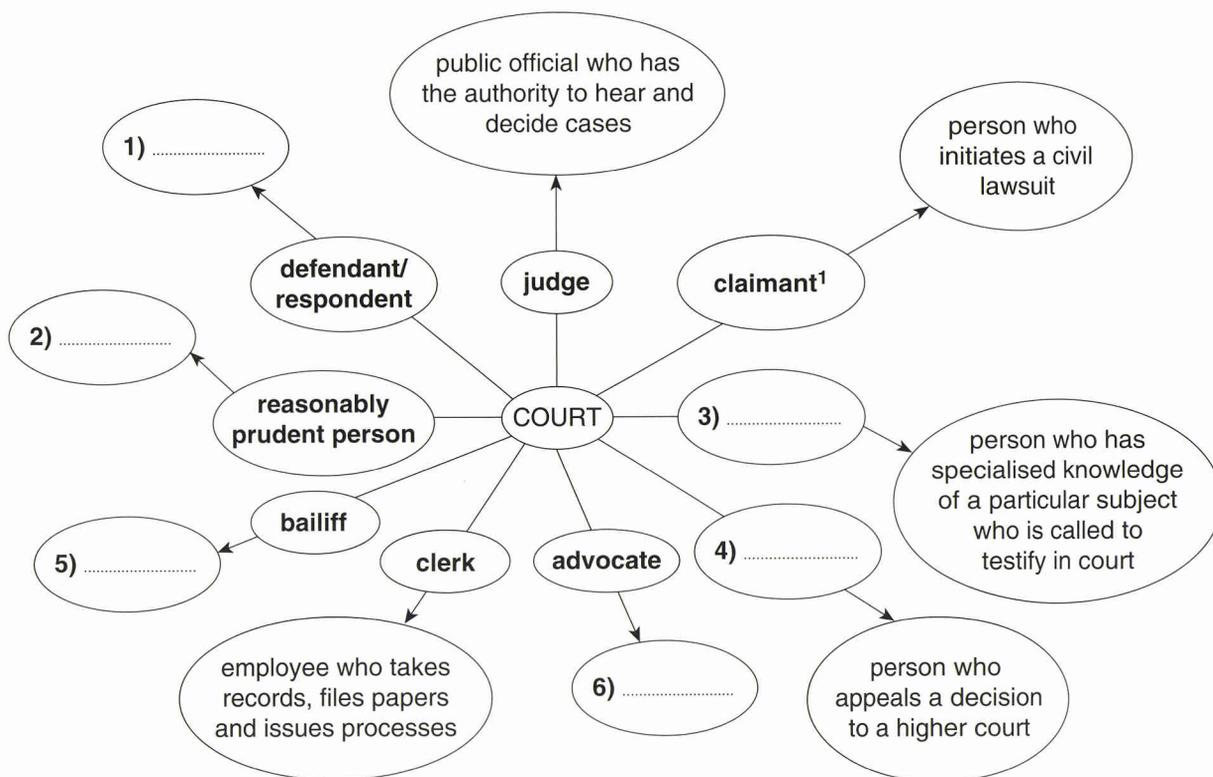
Work in small groups and discuss these questions.

1 Describe the different types of court in your jurisdiction and the areas of law they deal with.

2 Select one type of court in your jurisdiction and explain what kinds of case it deals with.

7 Reading E: Persons in court

Complete this diagram with the words and definitions below (a-f).



- a expert witness
- b appellant²
- c person who is sued in a civil lawsuit
- d officer of the court whose duties include keeping order and assisting the judge and jurors
- e person who pleads cases in court
- f hypothetical person who uses good judgment or common sense in handling practical matters; such a person's actions are the guide in determining whether an individual's actions were reasonable

¹ (US) usually plaintiff

² (US) also petitioner

8 Listening A: Documents in court

8.1 Listen to a lawyer telling a client about some of the documents involved in his case and answer these questions.

- 1 What claim has been filed against the client?
- 2 What does the lawyer need from the client to be able to prepare his defence?
- 3 Will the case go to trial?

8.2 Match these documents (1–9) with their definitions (a–i).

- | | |
|----------------------------|--|
| 1 affidavit | a a document informing someone that they will be involved in a legal process and instructing them what they must do |
| 2 answer | b a document or set of documents containing details about a court case |
| 3 brief | c a document providing notification of a fact, claim or proceeding |
| 4 complaint | d a formal written statement setting forth the cause of action or the defence in a case |
| 5 injunction | e a written statement that somebody makes after they have sworn officially to tell the truth, which might be used as proof in court |
| 6 motion | f an application to a court to obtain an order, ruling or decision |
| 7 notice | g an official order from a court for a person to stop doing something |
| 8 pleading | h in civil law, the first pleading filed on behalf of a plaintiff, which initiates a lawsuit, setting forth the facts on which the claim is based |
| 9 writ ¹ | i the principal pleading by the defendant in response to a complaint |

¹ Since the 1999 reform rules, the term *claim form* is used in the UK.

8.3 ⏮ Listen again and tick the documents that the lawyer mentions.

- | | | | | | |
|--------------------|--------------------------|---------------------|--------------------------|-------------------|--------------------------|
| 1 affidavit | <input type="checkbox"/> | 4 complaint | <input type="checkbox"/> | 7 notice | <input type="checkbox"/> |
| 2 answer | <input type="checkbox"/> | 5 injunction | <input type="checkbox"/> | 8 pleading | <input type="checkbox"/> |
| 3 brief | <input type="checkbox"/> | 6 motion | <input type="checkbox"/> | 9 writ | <input type="checkbox"/> |

8.4 Match each verb used by the lawyer (1–5) with its definition (a–e).

- | | |
|--|--|
| 1 to draft a document | a to deliver a legal document to someone, demanding that they go to a court of law or that they obey an order |
| 2 to issue a document | b to produce a piece of writing or a plan that you intend to change later |
| 3 to file a document with an authority | c to deliver a document formally for a decision to be made by others |
| 4 to serve a document on someone
(or to serve someone with a document) | d to officially record something, especially in a court of law |
| 5 to submit a document to an authority | e to produce something official |

8.5 Decide which of the documents in Exercise 8.2 can go with these verbs. The first one has been done for you.

- 1 draft *an answer, a brief, a complaint, a motion, a pleading*
- 2 issue
- 3 file (with)
- 4 serve (on someone)
- 5 submit

9 Reading F: Legal Latin

Lawyers use Latin words and expressions when writing legal texts of every kind, from statutes to emails. The excerpt below is from the legal document known as an 'answer'. It was submitted to the court by the defendant from Listening A.

9.1 Underline the common Latin words and phrases in the excerpt. Do you know what they mean?

The claim for breach of contract fails *inter alia* to state facts sufficient to constitute a cause of action, is uncertain as to what contract plaintiffs are suing on, and is uncertain in that it cannot be determined whether the contract sued on is written, oral or implied by conduct. The complaint alleges breach of contract as follows: 'At all times herein mentioned, plaintiffs were a part [*sic*] to the Construction Contract, as well as intended beneficiaries to each sub-contract for the construction of the house. In light of the facts set out above, defendants, and each of them, have breached the Construction Contract.' On its face, the claim alleges only that defendants 'breached the Construction Contract'. But LongCo is not a party to the Construction Contract. Therefore LongCo cannot be liable for its breach. See e.g. *GSI Enterprises, Inc. v. Warner* (1993).

9.2 Match each Latin word or expression (1–8) with its English equivalent and the explanation of its use (a–h).

- | | |
|--------------------------------|---|
| 1 ad hoc | a thus (used after a word to indicate the original, usually incorrect, spelling or grammar in a text) |
| 2 et alii (et al.) | b for example (used before one or more examples are given) |
| 3 et cetera (etc.) | c for this purpose (often used as an adjective before a noun) |
| 4 exempli gratia (e.g.) | d against (abbreviated to 'v.' in case citations, but to 'vs.' in all other instances) |
| 5 id est (i.e.) | e and others (usually used to shorten a list of people, often a list of authors, appellants or defendants) |
| 6 per se | f and other things of the same kind (used to shorten a list of similar items) |
| 7 sic | g by itself (often used after a noun to indicate the thing itself) |
| 8 versus (vs. or v.) | h that is (used to signal an explanation or paraphrase of a word preceding it) |

9.3 Match each Latin term (1–10) with its English equivalent (a–j).

- | | |
|----------------------------|--|
| 1 de facto | a among other things |
| 2 ipso facto | b per year |
| 3 inter alia | c number of shareholders or directors who have to be present at a board meeting so that it can be validly conducted |
| 4 per annum | d in fact |
| 5 pro forma | e of one's own right; able to exercise one's own legal rights |
| 6 pro rata | f proportionally |
| 7 quorum | g by that very fact itself |
| 8 sui juris | h as a matter of form |
| 9 ultra vires | i as follows |
| 10 videlicet (viz.) | j beyond the legal powers of a person or a body |