

Yay! We have a fresh new year and finally time for the annual English test for lawyers! I have been accused of making the questions too difficult, which is denied, but these will be easier questions than the 2017 test. You may begin.

**1. “One stone was an oval blue sapphire weighing 4.49 \_\_\_\_\_ valued at \$11,250 . . . .” *United States v. Reckmeyer*, 836 F.2d 200, 202 (4th Cir. 1987).**

- (A) carats
- (B) carets
- (C) karats

ANSWER:

(A) carats

“**Carat**” is a weight for gemstones, such as diamonds, emeralds, and rubies. In the *Reckmeyer* case, a store owner loaned a sapphire on consignment to an enterprising criminal defendant, who sold the stone to a third party without repaying the store.

“**Karat**” refers to a fineness of gold.

- “As time goes by, however, I am coming more and more to an appreciation that, however silver the speech, silence is usually constructed from 24 **karat** gold.” *Jensen v. Conrad*, 747 F.2d 185, 196 (4th Cir. 1984) (Murnaghan, J., concurring).

“**Caret**” is an editing mark (^) that shows an insertion.

- A caret is “[a] mark [^] placed in writing below the line, to indicate that something (written above or in the margin) has been omitted in that place.” *Collins v. Hughes & Riddle*, 278 N.W. 888, 891–92 (Neb. 1938) (defining “caret” and constructing a release and assignment agreement that used a caret and inserted typewritten words into the document).

**2. The three words in Question 1 above (carat, caret, karat) are examples of**

- (A) homographs
- (B) homonyms
- (C) homophones

ANSWER:

(C) homophones

Homophones are words with the same pronunciations, but are spelled differently (to, too, two).

Homographs are words with the same spelling. They can be pronounced the same (“bass”—a low, deep sound or voice or a musical instrument with a low, deep sound—and “bass”—a fish) or pronounced differently (“minute”—a unit of time—or “minute”—tiny).

Homonyms are words with the same spelling and pronunciation, but with different meanings (“address”—meaning a location—and “address”—meaning to speak to). Note that some authorities define homonyms as including both homophones and homographs (having the same pronunciation and spelling), with either the same or different meanings. See Mignon Fogarty, *Grammar Girl: Homophones, Homographs, and Homonyms*, [www.quickanddirtytips.com/education/grammar/homophones-homographs-and-homonyms-0?page=2](http://www.quickanddirtytips.com/education/grammar/homophones-homographs-and-homonyms-0?page=2) (Jan. 25, 2018) (“[B]ut what makes it tricky is that some definitions [of homonyms] also say that they can include homographs and homophones, so it’s almost like homonyms are a big set of all the different kinds of words that sound the same or are spelled the same or both.”).

**3. What kind of quotation marks should we use in our legal writing?**

- (A) Straight (“ ”)
- (B) Curly (“ ”)
- (C) Personal choice

ANSWER:

(B) Curly (“ ”)

I fought this rule for a long time—because I prefer the look of

straight quotation marks—but after being figuratively beaten about the face and head over this rule by my friend Erin, I succumbed. The Texas Law Review’s *Manual on Usage & Style* Rule 1.08 (Tech tip: Smart quotation marks) is the responsible party.

To change your computer to make curly quotation marks (also known as “smart quotes”), follow this easy procedure:

- Click on the File tab.
- Click on “Options.”
- Click “Proofing” and then “Auto-correct Options.”
- In the AutoCorrect box: Click the “AutoFormat As You Type” tab, and under “Replace as you type,” select or clear the “Straight quotes” with “smart quotes” check box.

**4. What is a gawlix?**

- (A) a form of footnote that contains only a citation of authority and no additional text
- (B) jug used to transport draft beer
- (C) Nordic dish of raw salmon that is cured in salt, sugar and dill
- (D) a set of symbols used to denote profanity

ANSWER:

(D) What the #&!%!? The term “gawlix” was coined by Mort Walker, the creator of the *Beetle Bailey* and *Hi and Lois* comic strips, to designate the string of symbols used in writing to “bleep” out cuss (or other offensive) words. See Dictionary.com, *Holy \$#!%: Where Did The Symbolic Swear Come From?* [www.dictionary.com/e/what-the/](http://www.dictionary.com/e/what-the/) (last visited Dec. 10, 2018). The first known use of the gawlix was in a comic strip called *The Katzenjammer Kids* in 1902. The “kids” were Hans and Fritz, who were the German version of *Dennis the Menace*, had pushed Uncle Heinie too far one day, causing him to swear. Of course, profanity was not

allowed in family newspapers back then, so the cartoonist resorted to the symbols to get the point across without actually saying the words. See Ben Zimmer, *How Did @#\$\$%&! Come to Represent Profanity?* <https://slate.com/human-interest/2013/10/the-grawlix-how-the-katzenjammer-kids-comic-strip-pioneered-the-use-of-typographical-symbols-for-swearing.html> (Oct. 9, 2013).

Right now, however, I would kill for some gravlax (the Nordic salmon) and a growler (jug of beer).

**Choose the correct spelling for the following:**

5. The neighborhood children were taken to the police station after being caught vandalizing the nearby cemetary/cemetery/ce-mitary/sematary.
6. “A nice dilemma/delima/delimma/dilemna we have here.” (from the operetta *Trial By Jury* by W.S. Gilbert and Arthur Sullivan).
7. The plaintiff’s lawyer felt calm at the beginning of her client’s cross-examination but grew more and more panic/panicky

**as the questions focused on the passenger’s identity.**

8. Daddy use/used to pick us up at 8:00 p.m. at the pavilion/pavillon/pavillian at Surfside Beach.

#### ANSWERS

##### **(A) cemetery**

I cannot find a spelling rule that would explain why the word is spelled this way. The best I can do is offer a “spooky spelling lesson” to help remember it: a cemetery can be “eerie,” a word with three e’s—just like “cemetery.” See Meghan Jones, 16 *Spelling Rules You Should Have Memorized*, [www.rd.com/culture/spelling-rules/](http://www.rd.com/culture/spelling-rules/) (last visited Dec. 11, 2018).

“Sematary” comes from the Stephen King horror novel *Pet Sematary*. The book’s title comes from a misspelled sign in the woods of the fictional Ludlow, Maine, where neighborhood children bury their pets and, sometimes, people.

##### **(6) dilemma**

“Dilemma”—a choice between two undesirable choices—comes from the Greek words “di” (meaning “two or twice”) and “lemma” (meaning “assumption or premise”). See Mignon Fogarty, *Grammar Girl: Is it “Dilemma” or “Dilemna”?*, Quick and Dirty Tips, Grammar Girl, [www.quickanddirtytips.com/education/grammar/it-dilemma-or-dilemna](http://www.quickanddirtytips.com/education/grammar/it-dilemma-or-dilemna) (March 24, 2011).

This *Grammar Girl* article answered a question that has bothered me for a while: why did I keep spelling “dilemna” for “dilemma” when that spelling does not even look or sound correct? The reason is because a lot of people—including Grammar Girl herself, as well as others all over the world—were taught in school to spell it incorrectly, even though that is not even an acceptable alternative spelling. *Id.* I blame my sixth grade teacher (may she rest in peace, but she never did like me). And, by the way, exactly one hundred court opinions contain the misspelled “dilemna” word—with Ohio leading the way with nine opinions. To be fair, in one opinion, an Ohio court of appeals was quoting the lower court, which it threw under the bus

by putting “[sic]” after “dilemna” so that we would know the court of appeals knew the right spelling even if the trial court did not.

##### **(7) panicky**

Words ending in “c” (such as *panic* and *picnic*) often add a “k” before suffixes beginning with “e,” “i,” or “y” to protect the hard “c” (pronounced with a “k” sound). Exceptions are words like *arc*, *talc* and *zinc*. See Claudia Sorsby, *Spelling 101*, at 134 (1996).

In case you were wondering, the word “panic” came from Pan, who was in Greek mythology the god of woods, fields and flocks. Pan was part human, part goat and seriously frightened people who walked through the woods, who were full of terror or panic. See Kathy Ganske, *Mindful of Words* 120 (2008).

##### **(8) used to, pavilion used to**

Pet-Peeve Alert: I get unreasonably upset when I read or hear things like, “I use to like SpaghettiOs, but now I don’t.” PEOPLE! SAY “USED TO”! Past tense! See merriam-webster.com, *Is It ‘Used To’ or ‘Use To’? You’ll get used to it* (Usage Notes), [www.merriam-webster.com/words-at-play/is-it-used-to-or-use-to](http://www.merriam-webster.com/words-at-play/is-it-used-to-or-use-to) (last visited Dec. 11, 2018).

##### pavilion

A “pavilion” is “a usually open sometimes ornamental structure in a garden, park or place of recreation that is used for entertainment or shelter.” *Id.*, [www.merriam-webster.com/dictionary/pavilion](http://www.merriam-webster.com/dictionary/pavilion) (last visited Dec. 11, 2018).

A “pavillon” is the bell of a wind instrument. *Id.*, [www.merriam-webster.com/dictionary/pavillon](http://www.merriam-webster.com/dictionary/pavillon) (last visited Dec. 11, 2018).

**9. Punctuate the dates in the following sentences with commas, as needed:**

- On September 17 1787 the United States Constitution was signed into law.
- My law school class spent the summer of 1989 preparing for the bar exam.
- When we received Judge Quattle-

baum's December 22 2018 order we immediately called our client to report the news.

ANSWER

• On September 17, 1787, the United States Constitution was signed into law.

When a sentence includes a complete date (month, day and year), set off the year with commas on both sides. See Texas Law Review, *Manual on Usage & Style*, Rule 1.25, at 13 (14th ed. 2017).

• My law school class spent the summer of 1989 preparing for the bar exam.

Do not use commas to set off a date if the date is not complete. *Id.*

• When we received Judge Quattlebaum's December 22, 2018 order we immediately called our client to report the news.

If a complete date is used as an adjective as in the example above, put a comma only before the year. *Id.*

**10. When may legal writers use large and small capital letters (E.**

**WARREN MOISE, SO YOU'RE GOING TO**

TRY YOUR FIRST CASE . . . ) in briefs?

**(A) when citing to authors and titles of books and for titles of periodicals**

**(B) never because large and small capitals are used only in citations in academic writing, such as in law reviews**

ANSWER

(A) Large and small capitals may also be used in non-academic writing "for stylistic purposes" (i.e., showing off). Large and small capitals are never required in non-academic writing, and they should only be used in citations of books and periodicals. See *The Bluebook: A Uniform System of Citation*, Rule B2, at 7 (20th ed. 2015).

To make large and small capitals, shade the words with your computer mouse and click Control + Shift + K. Voilà.

Pencils down! If your score is less than 70, meet me in the library at 7:30 tonight for some remedial sentence-diagramming and review. Gravlax and growlers will be served.

**Palmetto Pro Bono**

(continued from page 21)

gram on the provision of disaster legal services which will be used to recruit and train volunteers to assist low-income victims in the event of a future natural disaster within our state. The funding will also be used to produce web-based training materials to assist lawyers helping disaster victims with common disaster related legal topics.

Now is the time to equip yourself with disaster-related legal skills – in the calm before another storm strikes. More information on future training and on ways to indicate your willingness to serve in the event of a disaster will be forthcoming. Like CPR training, the best-case scenario will be that our state does not experience a future disaster resulting in a need for your services. Then again, the best-case scenario may be that when the need arises, you are able to provide legal services to a person in dire need of your skills.