



Glossary

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- [A](#)
- [B](#)
- [C](#)
- [D](#)
- [E](#)
- [F](#)
- [G](#)
- [H](#)
- [I](#)
- [J](#)
- [K](#)
- [L](#)
- [M](#)
- [N](#)
- [O](#)
- [P](#)
- [Q](#)
- [R](#)
- [S](#)
- [T](#)
- [U](#)
- [V](#)
- [W](#)
- [Z](#)

A

Abandonment

The surrender, relinquishment, disclaimer, or cession of property or of rights. Voluntary relinquishment of all right, title, claim, and possession, with the intent of not reclaiming it. The giving up of a thing absolutely, without reference to any particular person or purpose, as vacating property with the intention of not returning, so that it may be appropriated by the next comer or finder. The voluntary relinquishment of possession of thing by owner with intention of terminating ownership, but without vesting it in any other person. The relinquishing of all title, possession, or claim, or a virtual, intentional throwing away of property. Term includes both the intention to abandon and the external act by which the intention is carried into effect. In determining whether one has abandoned property or rights, the intention is the first and paramount object of inquiry, for there can be no abandonment without the intention to abandon. *Abandonment* differs from surrender in that surrender requires an agreement, and also from forfeiture, in that forfeiture may be against the intention of the party alleged to have forfeited.

Abatement

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A reduction, a decrease, or a diminution. The suspension or cessation, in whole or in part, of a continuing charge, such as rent.

Abolition

The destruction, annihilation, abrogation, or extinguishment of anything, but especially things of a permanent nature—such as institutions, usages, or customs, as in the abolition of slavery.

Abortion

The spontaneous or artificially induced expulsion of an embryo or fetus. As used in legal context, usually refers to induced abortion.

Absentee voting

Participation in an election by qualified voters who are permitted to mail in their ballots.

Accessory

Aiding or contributing in a secondary way or assisting in or contributing to as a subordinate. In criminal law, contributing to or aiding in the commission of a crime. One who, without being present at the commission of an offense, becomes guilty of such offense, not as a chief actor, but as a participant, as by command, advice, instigation, or concealment; either before or after the fact or commission. One who aids, abets, commands, or counsels another in the commission of a crime.

Accusation

A formal criminal charge against a person alleged to have committed an offense punishable by law, which is presented before a court or a magistrate having jurisdiction to inquire into the alleged crime.

Accused

The generic name for the defendant in a criminal case. A person becomes accused within the meaning of a guarantee of speedy trial only at the point at which either formal indictment or information has been returned against him or her, or when he or she becomes subject to actual restraints on liberty imposed by arrest, whichever occurs first.

Acquiescence

Conduct recognizing the existence of a transaction and intended to permit the transaction to be carried into effect; a tacit agreement; consent inferred from silence.

Acquit

To set free, release or discharge as from an obligation, burden or accusation. To absolve one from an obligation or a liability; or to legally certify the innocence of one charged with a crime.

Acquittal

The legal and formal certification of the innocence of a person who has been charged with a crime.

Actual cash value

The fair or reasonable cash price for which a property could be sold in the market in the ordinary course of business, and not at forced sale. The price it will bring in a fair market after reasonable efforts to find a purchaser who will give the highest price. What property is worth in money, allowing for depreciation. Ordinarily, *actual cash value*, *fair market value*, and *market value* are synonymous terms.

Ad hoc

[*Latin, For this; for this special purpose.*] An attorney ad hoc, or a guardian or curator ad hoc, is one appointed for a special purpose, generally to represent the client or infant in the particular action in which the appointment is made.

Ad valorem

According to value.

Adjudication

The legal process of resolving a dispute. The formal giving or pronouncing of a judgment or decree in a court proceeding; also the judgment or decision given. The entry of a decree by a court in respect to the parties in a case. It implies a hearing by a court, after notice, of legal evidence on the factual issue(s) involved. The equivalent of a determination. It indicates that the claims of all the parties thereto have been considered and set at rest.

Adjusted gross income

The term used for income tax purposes to describe gross income less certain allowable deductions such as trade and business deductions, moving expenses, alimony paid, and penalties for premature withdrawals from term savings accounts, in order to determine a person's taxable income.

Adjuster

A person appointed or employed to settle or arrange matters that are in dispute; one who determines the amount to be paid on a claim.

Admissible

A term used to describe information that is relevant to a determination of issues in any judicial proceeding so that such information can be properly considered by a judge or jury in making a decision.

Adoption

A two-step judicial process in conformance to state statutory provisions in which the legal obligations and rights of a child toward the biological parents are terminated and new rights and obligations are created in the acquired parents.

Adultery

Voluntary sexual relations between an individual who is married and someone who is not the individual's spouse.

Affidavit

A written statement of facts voluntarily made by an affiant under an oath or affirmation administered by a person authorized to do so by law.

Affirmative action

Employment programs required by federal statutes and regulations designed to remedy discriminatory practices in hiring minority group members; i.e., positive steps designed to eliminate existing and continuing discrimination, to remedy lingering effects of past discrimination, and to create systems and procedures to prevent future discrimination; commonly based on population percentages of minority groups in a particular area. Factors considered are race, color, sex, creed, and age.

Age of consent

The age at which a person may marry without parental approval. The age at which a female is legally capable of agreeing to sexual intercourse, so that a male who engages in sex with her cannot be prosecuted for statutory rape.

Age of majority

The age at which a person, formerly a minor or an infant, is recognized by law to be an adult, capable of managing his or her own affairs and responsible for any legal obligations created by his or her actions.

Aliens

Foreign-born persons who have not been naturalized to become U.S. citizens under federal law and the Constitution.

Alimony

Payment that a family court may order one person in a couple to make to the other person when that couple separates or divorces.

Allegation

The assertion, claim, declaration, or statement of a party to an action, setting out what he or she expects to prove.

Allege

To state, recite, assert, or charge the existence of particular facts in a pleading or an indictment; to make an allegation.

Ancillary

Subordinate; aiding. A legal proceeding that is not the primary dispute but which aids the judgment rendered in or the outcome of the main action. A descriptive term that denotes a legal claim, the existence of which is dependent upon or reasonably linked to a main claim.

Annual percentage rate

The actual cost of borrowing money, expressed in the form of a yearly measure to allow consumers to compare the cost of borrowing money among several lenders.

Annuity

A right to receive periodic payments, usually fixed in size, for life or a term of years that is created by a contract or other legal document.

Annulment

A judgment by a court that retroactively invalidates a marriage to the date of its formation.

Antitrust law

Legislation enacted by the federal and various state governments to regulate trade and commerce by preventing unlawful restraints, price-fixing, and monopolies, to promote competition, and to encourage the production of quality goods and services at the lowest prices, with the primary goal of safeguarding public welfare by ensuring that consumer demands will be met by the manufacture and sale of goods at reasonable prices.

Appellant

A person who dissatisfied with the judgment rendered in a lawsuit decided in a lower court or the findings from a proceeding before an administrative agency, asks a superior court to review the decision.

Appellate

Relating to appeals; reviews by superior courts of decisions of inferior courts or administrative agencies and other proceedings.

Appellate court

A court having jurisdiction to review decisions of a trial-level or other lower court.

Apportionment

The process by which legislative seats are distributed among units entitled to representation.

Determination of the number of representatives that a state, county, or other subdivision may send to a legislative body. The U.S. Constitution provides for a census every ten years, on the basis of which Congress apportions representatives according to population; but each state must have at least one representative. *Districting* is the establishment of the precise geographical boundaries of each such unit or constituency. Apportionment by state statute that denies the rule of one-person, one-vote is violative of equal protection of laws. Also, the allocation of a charge or cost such as real estate taxes between two parties, often in the same ratio as the respective times that the parties are in possession or ownership of property during the fiscal period for which the charge is made or assessed.

Appraisal

A valuation or an approximation of value by impartial, properly qualified person; the process of determining the value of an asset or liability, which entails expert opinion rather than express commercial transactions.

Appraiser

A person selected or appointed by a competent authority or an interested party to evaluate the financial worth of property.

Appreciation

The fair and reasonable estimation of the value of an item. The increase in the financial worth of an asset as compared to its value at a particular earlier date as a result of inflation or greater market demand.

Appropriation

The designation by the government or an individual of the use to which a fund of money is to be applied. The selection and setting apart of privately owned land by the government for public use, such as a military reservation or public building. The diversion of water flowing on public domain from its natural course by means of a canal or ditch for a private beneficial use of the appropriator.

Arbiter

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[*Latin, One who attends something to view it as a spectator or witness.*] Any person who is given an absolute power to judge and rule on a matter in dispute.

Arbitration

The submission of a dispute to an unbiased third person designated by the parties to the controversy, who agree in advance to comply with the award—a decision to be issued after a hearing at which both parties have an opportunity to be heard.

Arrears

A sum of money that has not been paid or has only been paid in part at the time it is due.

Arrest warrant

A written order issued by authority of the state and commanding the seizure of the person named.

Arson

At common law, the malicious burning or exploding of the dwelling house of another, or the burning of a building within the curtilage, the immediate surrounding space, of the dwelling of another.

Articles of Confederation

The document that set forth the terms under which the original thirteen states agreed to participate in a centralized form of government, in addition to their self-rule, and that was in effect from March 1, 1781, to March 4, 1789, prior to the adoption of the Constitution.

Articles of incorporation

The document that must be filed with an appropriate government agency, commonly the office of the secretary of state, if the owners of a business want it to be given legal recognition as a corporation.

Artificial insemination

The process by which a woman is medically impregnated using semen from her husband or from a third-party donor.

As is

A term used to describe a sales transaction in which the seller offers goods in their present, existing condition to prospective buyers.

Assault

At common law, an intentional act by one person that creates an apprehension in another of an imminent harmful or offensive contact.

Assault and battery

Two separate offenses against the person that when used in one expression may be defined as any unlawful and unpermitted touching of another. *Assault* is an act that creates an apprehension in another of an imminent, harmful, or offensive contact. The act consists of a threat of harm accompanied by an apparent, present ability to carry out the threat. *Battery* is a harmful or offensive touching of another.

Assent

An intentional approval of known facts that are offered by another for acceptance, agreement.

Assessment

The process by which the financial worth of property is determined. The amount at which an item is valued. A demand by the board of directors of a corporation for the payment of any money that is still owed on the purchase of capital stock. The determination of the amount of damages to be awarded to a plaintiff who has been successful in a lawsuit. The ascertainment of the pro rata share of taxes to be paid by members of a group of taxpayers who have directly benefited from a particular common goal or project according to the benefit conferred upon the individual or his or her property. This is known as a special assessment. The listing and valuation of property for purposes of fixing a tax upon it for which its owner will be liable. The procedure by which the Internal Revenue Service, or other government department of taxation, declares that a taxpayer owes additional tax because, for example, the individual has understated personal gross income or has taken deductions to which he or she is not entitled. This process is also known as a deficiency assessment.

Attorney-client privilege

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In law of evidence, client's privilege to refuse to disclose and to prevent any other person from disclosing confidential communications between the client and his or her attorney. Such privilege protects communications between attorney and client made for the purpose of furnishing or obtaining professional legal advice or assistance. That privilege

that permits an attorney to refuse to testify as to communications from the client though it belongs to the client, not the attorney, and hence the client may waive it. In federal courts, state law is applied with respect to such privilege.

Audit

A systematic examination of financial or accounting records by a specialized inspector, called an auditor, to verify their accuracy and truthfulness. A hearing during which financial data are investigated for purposes of authentication.

Authentication

The confirmation rendered by an officer of a court that a certified copy of a judgment is what it purports to be, an accurate duplicate of the original judgment. In the law of evidence, the act of establishing a statute, record, or other document, or a certified copy of such an instrument as genuine and official so that it can be used in a lawsuit to prove an issue in dispute.

B

Bad faith

The fraudulent deception of another person; the intentional or malicious refusal to perform some duty or contractual obligation.

Bail

The system that governs the status of individuals charged with committing crimes, from the time of their arrest to the time of their trial, and pending appeal, with the major purpose of ensuring their presence at trial.

Bailiff

An individual who is entrusted with some authority, care, guardianship, or jurisdiction over designated persons or property. One who acts in a managerial or ministerial capacity or takes care of land, goods, and chattels of another in order to make the best profit for the owner. A minor officer of a court serving primarily as a messenger or usher. A low-level court official or sheriff's deputy whose duty is to preserve and protect orderly conduct in court proceedings.

Bankruptcy

A federally authorized procedure by which a debtor—an individual, corporation, or municipality—is relieved of total liability for its debts by making court-approved arrangements for their partial repayment.

Bar association

An organization of lawyers established to promote professional competence, enforce standards of ethical conduct, and encourage a spirit of public service among members of the legal profession.

Beneficiary

An organization or a person for whom a trust is created and who thereby receives the benefits of the trust. One who inherits under a will. A person entitled to a beneficial interest or a right to profits, benefit, or advantage from a contract.

Bequest

A gift of personal property, such as money, stock, bonds, or jewelry, owned by a decedent at the time of death which is directed by the provisions of the decedent's will; a legacy.

Beyond a reasonable doubt

The standard that must be met by the prosecution's evidence in a criminal prosecution: that no other

logical explanation can be derived from the facts except that the defendant committed the crime, thereby over-coming the presumption that a person is innocent until proven guilty.

Bias

A predisposition or a preconceived opinion that prevents a person from impartially evaluating facts that have been presented for determination; a prejudice.

Bigamy

The offense of willfully and knowingly entering into a second marriage while validly married to another individual.

Bilateral contract

An agreement formed by an exchange of promises in which the promise of one party is consideration supporting the promise of the other party.

Bill of rights

The first ten amendments to the U.S. Constitution, ratified in 1791, which set forth and guarantee certain fundamental rights and privileges of individuals, including freedom of religion, speech, press, and assembly; guarantee of a speedy jury trial in criminal cases; and protection against excessive bail and cruel and unusual punishment. A list of fundamental rights included in each state constitution. A declaration of individual rights and freedoms, usually issued by a national government.

Bill of sale

In the law of contracts, a written agreement, previously required to be under seal, by which one person transfers to another a right to, or interest in, personal property and goods, a legal instrument that conveys title in property from seller to purchaser.

Birth control

A measure or measures undertaken to prevent conception.

Blackmail

The crime involving a threat for purposes of compelling a person to do an act against his or her will, or for purposes of taking the person's money or property.

Bonds

Written documents by which a government, corporation, or individual—the obligor—promises to perform a certain act, usually the payment of a definite sum of money, to another—the obligee—on a certain date.

Boundaries

Natural or artificial separations or divisions between adjoining properties to show their limits.

Boycott

A lawful concerted attempt by a group of people to express displeasure with, or obtain concessions from, a particular person or company by refusing to do business with them. An unlawful attempt that is prohibited by the Sherman Anti-Trust Act (15 U.S.C.A. § 1 et seq.), to adversely affect a company through threat, coercion, or intimidation of its employees, or to prevent others from doing business with said company. A practice utilized in labor disputes whereby an organized group of employees bands together and refrains from dealing with an employer, the legality of which is determined by applicable provisions of statutes governing labor-management relations.

Bribery

The offering, giving, receiving, or soliciting of something of value for the purpose of influencing the action of an official in the discharge of his or her public or legal duties.

Burglary

The criminal offense of breaking and entering a building illegally for the purpose of committing a crime therein.

Bylaws

The rules and regulations enacted by an association or a corporation to provide a framework for its operation and management.

C

Canon law

Any church's or religion's laws, rules, and regulations; more commonly, the written policies that guide the administration and religious ceremonies of the Roman Catholic Church.

Capital asset

Property held by a taxpayer, such as houses, cars, stocks, bonds, and jewelry, or a building owned by a corporation to furnish facilities for its employees.

Capital punishment

The lawful infliction of death as a punishment; the death penalty.

Case law

Legal principles enunciated and embodied in judicial decisions that are derived from the application of particular areas of law to the facts of individual cases.

Casualty

A serious or fatal accident. A person or thing injured, lost, or destroyed. A disastrous occurrence due to sudden, unexpected, or unusual cause. Accident; misfortune or mishap; that which comes by chance or without design. A loss from such an event or cause, as by fire, shipwreck, lightning, etc.

Caveat

[*Latin, Let him beware.*] A warning; admonition. A formal notice or warning given by an interested party to a court, judge, or ministerial officer in opposition to certain acts within his or her power and jurisdiction.

Cease and desist order

An order issued by an administrative agency or a court proscribing a person or a business entity from continuing a particular course of conduct.

Censorship

The suppression or proscription of speech or writing that is deemed obscene, indecent, or unduly controversial.

Census

An official count of the population of a particular area, such as a district, state, or nation.

Certified check

A written order made by a depositor to a bank to pay a certain sum to the person designated—the payee—which is marked by the bank as "accepted" or "certified," thereby unconditionally promising that the bank will pay the order upon its presentation by the payee.

Certified copy

A photocopy of a document, judgment, or record that is signed and attested to as an accurate and a complete reproduction of the original document by a public official in whose custody the original has been placed for safekeeping.

Certiorari

[*Latin, To be informed of.*] At common law, an original writ or order issued by the Chancery of King's Bench, commanding officers of inferior courts to submit the record of a cause pending before them to give the party more certain and speedy justice. A writ that a superior appellate court issues on its discretion to an inferior court, ordering it to produce a certified record of a particular case it has tried, in order to determine whether any irregularities or errors occurred that justify review of the case. A device by which the Supreme Court of the United States exercises its discretion in selecting the cases it will review.

Chief justice

The presiding, most senior, or principal judge of a court.

Child abuse

Physical, sexual, or emotional mistreatment or neglect of a child.

Child care

The supervision and nurturing of a child, including casual and informal services provided by a parent as well as more formal services provided by an organized child care center.

Child custody

The care, control, and maintenance of a child, which a court may award to one of the parents following a divorce or separation proceeding.

Child labor laws

Federal and state legislation that protects children by restricting the type and hours of work they perform.

Child support

A payment that a noncustodial parent makes as a contribution to the costs of raising her or his child.

Children's rights

The opportunity for children to participate in political and legal decisions that affect them; in a broad sense, the rights of children to live free from hunger, abuse, neglect, and other inhumane conditions.

Circumstantial evidence

Information and testimony presented by a party in a civil or criminal action that permit conclusions that indirectly establish the existence of nonexistence of a fact or event that the party seeks to prove.

Citation

A paper commonly used in various courts— such as a probate, matrimonial, or traffic court—that is served upon an individual to notify him or her that he or she is required to appear at a specific time and place. Reference to a legal authority—such as a case, constitution, or treatise—where particular information may be found.

Civil action

A lawsuit brought to enforce, redress, or protect rights of private litigants (the plaintiffs and the defendants); not a criminal proceeding.

Civil procedure

The methods, procedures, and practices used in civil cases.

Civil rights

Personal liberties that belong to an individual owing to his or her status as a citizen or resident of a particular country or community.

Civil rights cases

A landmark decision, which was a consolidation of several cases brought before the Supreme Court of the United States in 1883 that declared the Civil Rights Act of 1875 (18 Stat. 336) unconstitutional and ultimately led to the enactment of state laws, such as Jim Crow Laws, which codified what had previously been individual adherence to the practice of racial segregation. The cases were *United States v. Stanley*, *United States v. Ryan*, *United States v. Nichols*, and *United States v. Singleton*, 109 U.S. 3, 3 S. Ct. 18, 27 L. Ed. 835.

Class action

A lawsuit that allows a large number of people with a common interest in a matter to sue or be sued as a group.

Clayton Act

A federal law enacted in 1914 as an amendment to the Sherman Anti-Trust Act (15 U.S.C.A. § 1 et seq. [1890]), prohibiting undue restriction of trade and commerce by designated methods.

Clemency

Leniency or mercy. A power given to a public official, such as a governor or the president, to in some way lower or moderate the harshness of punishment imposed upon a prisoner.

Code of Federal Regulations

A set of books published by the federal government and containing the regulations of federal agencies currently in effect.

Codicil

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A document that is executed by a person who had previously made his or her will, to modify, delete, qualify, or revoke provisions contained in it.

Coercion

The intimidation of a victim to compel the individual to do some act against his or her will by the use of psychological pressure, physical force, or threats. The crime on intentionally and unlawfully restraining another's freedom by threatening to commit a crime, accusing the victim of a crime, disclosing any secret that would seriously impair the victim's reputation in the community, or by performing or refusing to perform an official action lawfully requested by the victim, or by causing an official to do so. A defense asserted in a criminal prosecution that a person who committed a crime did not do so of his or her own free will, but only because the individual was compelled by another through the use of physical force or threat of immediate serious bodily injury or death.

Cohabitation

A living arrangement in which an unmarried couple live together in a long-term relationship that resembles a marriage.

Collateral

Related; indirect; not bearing immediately upon an issue. The property pledged or given as a security interest, or a guarantee for payment of a debt, that will be taken or kept by the creditor in case of a default on the original debt.

Collective bargaining

The process through which a labor union and an employer negotiate the scope of the employment relationship.

Collective bargaining agreement

The contractual agreement between an employer and a labor union that governs wages, hours, and working conditions for employees and which can be enforced against both the employer and the union for failure to comply with its terms.

Commerce

The exchange of goods, products, or any type of personal property. Trade and traffic carried on between different peoples or states and its inhabitants, including not only the purchase, sale, and exchange of commodities but also the instrumentalities, agencies, and means by which business is accomplished. The transportation of persons and goods, by air, land, and sea. The exchange of merchandise on a large scale between different places or communities.

Commercial Code

A colloquial designation for the body of law known as the Uniform Commercial Code (UCC), which governs the various business transactions that are integral parts of the U.S. system of commerce.

Commercial paper

A written instrument or document such as a check, draft, promissory note, or a certificate of deposit, that manifests the pledge or duty of one individual to pay money to another.

Common law

The ancient law of England based upon societal customs and recognized and enforced by the judgments and decrees of the courts. The general body of statutes and case law that governed England and the American colonies prior to the American Revolution. The principles and rules of action, embodied in case law rather than legislative enactments, applicable to the government and protection of persons and property that derive their authority from the community customs and traditions that evolved over the centuries as interpreted by judicial tribunals. A designation used to denote the opposite of statutory, equitable, or civil; for example, a common-law action.

Common stock

Evidence of participation in the ownership of a corporation that takes the form of printed certificates.

Community property

The holdings and resources owned in common by a husband and wife.

Compensatory damages

A sum of money awarded in a civil action by a court to indemnify a person for the particular loss, detriment, or injury suffered as a result of the unlawful conduct of another.

Compound interest

Interest generated by the sum of the principal and any accrued interest.

Comptroller

An officer who conducts the fiscal affairs of a state or municipal corporation.

Computer crime

The use of a computer to take or alter data, or to gain unlawful use of computers or services.

Conciliation

The process of adjusting or settling disputes in a friendly manner through extrajudicial means. Conciliation means bringing two opposing sides together to reach a compromise in an attempt to avoid taking a case to trial. Arbitration, in contrast, is a contractual remedy used to settle disputes out of court. In arbitration the two parties in controversy agree in advance to abide by the decision made by a third party called in as a mediator, whereas conciliation is less structured.

Condominiums and cooperatives

Two common forms of multiple-unit dwellings, with independent owners or lessees of the individual units comprising the multiple-unit dwelling who share various costs and responsibilities of areas they use in common.

Confession

A statement made by an individual that acknowledges his or her guilt in the commission of a crime.

Conflict of interest

A term used to describe the situation in which a public official or fiduciary who, contrary to the obligation and absolute duty to act for the benefit of the public or a designated individual, exploits the relationship for personal benefit, typically pecuniary.

Conjugal

Pertaining or relating to marriage; suitable or applicable to married people.

Conspiracy

An agreement between two or more persons to engage jointly in an unlawful or criminal act, or an act that is innocent in itself but becomes unlawful when done by the combination of actors.

Constitutional amendment

The means by which an alteration to the U.S. Constitution, whether a modification, deletion, or addition, is accomplished.

Consumer Credit Protection Act

A federal statute designed to protect borrowers of money by mandating complete disclosure of the terms and conditions of finance charges in transaction by limiting the garnishment of wages and by regulating the use of charge accounts.

Consumer Price Index

A computation made and issued monthly by the Bureau of Labor Statistics of the federal Labor Department that attempts to track the price level of designated goods and services purchased by the average consumer.

Consumer protection

Consumer protection laws are federal and state statutes governing sales and credit practices involving consumer goods. Such statutes prohibit and regulate deceptive or unconscionable advertising and sales practices, product quality, credit financing and reporting, debt collection, leases and other aspects of consumer transactions.

Consummate

To carry into completion; to fulfill; to accomplish.

Contempt

An act of deliberate disobedience or disregard for the laws, regulations, or decorum of a public authority, such as a court or legislative body.

Continuance

The adjournment or postponement of an action pending in a court to a later date of the same or another session of the court, granted by a court in response to a motion made by a party to a lawsuit. The entry into the trial record of the adjournment of a case for the purpose of formally evidencing it.

Contraband

Any property that it is illegal to produce or possess. Smuggled goods that are imported into or exported from a country in violation of its laws.

Conviction

The outcome of a criminal prosecution which concludes in a judgment that the defendant is guilty of the crime charged. The juncture of a criminal proceeding during which the question of guilt is ascertained. In a case where the perpetrator has been adjudged guilty and sentenced, a record of the summary proceedings brought pursuant to any penal statute before one or more justices of the peace or other properly authorized persons.

Cooling-off period

An interval of time during which no action of a specific type can be taken by either side in a dispute. An automatic delay in certain jurisdictions, apart from ordinary court delays, between the time when divorce papers are filed and the divorce hearing takes place. An amount of time within which a buyer is permitted to cancel a contract for the purchase of consumer goods—designed to effect consumer protection. A number of states require that a three-day cancellation period must be allowed purchasers following door-to-door sales.

Copyright

An intangible right granted by statute to the author or originator of certain literary or artistic productions, whereby, for a limited period, the exclusive privilege is given to the person to make copies of the same for publication and sale.

Corporate

Pertaining to or possessing the qualities of a corporation, a legal entity created—pursuant to state law—to serve the purposes set out in its certificate of incorporation.

Corporations

Artificial entities that are created by state statute, and that are treated much like individuals under the law, having legally enforceable rights, the ability to acquire debt and pay out profits, the ability to hold and transfer property, the ability to enter into contracts, the requirement to pay taxes, and the ability to sue and be sued.

Counsel

An attorney or lawyer. The rendition of advice and guidance concerning a legal matter, contemplated form of argument, claim, or action.

Counterclaim

A claim by a defendant opposing the claim of the plaintiff and seeking some relief from the plaintiff for the defendant.

Counterfeit

To falsify, deceive, or defraud. A copy or imitation of something that is intended to be taken as authentic and genuine in order to deceive another.

Counterfeiting

The process of fraudulently manufacturing, altering, or distributing a product that is of lesser value than the genuine product.

Counteroffer

In contract law, a proposal made in response to an original offer modifying its terms, but which has the legal effect of rejecting it.

Court of appeal

An intermediate federal judicial tribunal of review that is found in thirteen judicial districts, called circuits, in the United States. A state judicial tribunal that reviews a decision rendered by an inferior tribunal to determine whether it made errors that warrant the reversal of its judgment.

Court of claims

A state judicial tribunal established as the forum in which to bring certain types of lawsuits against the state or its political subdivisions, such as a county. The former designation given to a federal tribunal created in 1855 by Congress with original jurisdiction—initial authority—to decide an action brought against the United States that is based upon the Constitution, federal law, any regulation of the executive department, or any express or implied contracts with the federal government.

CPA

An abbreviation for certified public accountant. A CPA is a trained accountant who has been examined and licensed by the state. He or she is permitted to perform all the tasks of an ordinary accountant in addition to examining the books and records of various business organizations, such as corporations.

Credibility

Believability. The major legal application of the term *credibility* relates to the testimony of a witness or party during a trial. Testimony must be both competent and credible if it is to be accepted by the trier of fact as proof of an issue being litigated.

Credit union

A corporation formed under special statutory provisions to further thrift among its members while providing credit for them at more favorable rates of interest than those offered by other lending institutions. A credit union is a cooperative association that utilizes funds deposited by a small group of people who are its sole borrowers and beneficiaries. It is ordinarily subject to regulation by state banking boards or commissions. When formed pursuant to the Federal Credit Union Act (12 U.S.C.A. § 1751 et seq. [1934]), credit unions are chartered and regulated by the National Credit Union Administration.

Creditor

An individual to whom an obligation is owed because he or she has given something of value in exchange. One who may legally demand and receive money, either through the fulfillment of a contract or due to injury sustained as a result of another's negligence or intentionally wrongful act. The term *creditor* is also used to describe an individual who is engaged in the business of lending money or selling items for which immediate payment is not demanded but an obligation of repayment exists as of a future date.

Criminal procedure

The framework of laws and rules that govern the administration of justice in cases involving an individual who has been accused of a crime, beginning with the initial investigation of the crime and concluding either with the unconditional release of the accused by virtue of acquittal (a judgment of not guilty) or by the imposition of a term of punishment pursuant to a conviction for the crime.

Cross-examination

The questioning of a witness or party during a trial hearing, or deposition by the party opposing the one who asked the person to testify in order to evaluate the truth of that person's testimony, to develop the testimony further, or to accomplish any other objective. The interrogation of a witness or party by the party opposed to the one who called the witness or party, upon a subject raised during direct examination—the initial questioning of a witness or party—on the merits of that testimony.

Cruel and unusual punishment

Such punishment as would amount to torture or barbarity, and cruel and degrading punishment not known to the common law, or any fine, penalty, confinement, or treatment so disproportionate to the offense as to shock the moral sense of the community.

Custody

The care, possession, and control of a thing or person. The retention, inspection, guarding, maintenance, or security of a thing within the immediate care and control of the person to whom it is

committed. The detention of a person by lawful authority or process.

D

Debit

A sum charged as due or owing. An entry made on the asset side of a ledger or account. The term is used in bookkeeping to denote the left side of the ledger, or the charging of a person or an account with all that is supplied to or paid out for that person or for the subject of the account. Also, the balance of an account where it is shown that something remains due to the party keeping the account. As a noun, an entry on the left-hand side of an account. As a verb, to make an entry on the left-hand side of an account. A term used in accounting or bookkeeping that results in an increase to an asset and an expense account and a decrease to a liability, revenue, or owner's equity account.

Debtor

One who owes a debt or the performance of an obligation to another, who is called the creditor; one who may be compelled to pay a claim or demand; anyone liable on a claim, whether due or to become due. In bankruptcy law, a person who files a voluntary petition or person against whom an involuntary petition is filed. A person or municipality concerning which a bankruptcy case has been commenced.

Declaration of trust

An assertion by a property owner that he or she holds the property or estate for the benefit of another person, or for particular designated objectives.

Decree

A judgment of a court that announces the legal consequences of the facts found in a case and orders that the court's decision be carried out. A decree in equity is a sentence or order of the court, pronounced on hearing and understanding all the points in issue, and determining the rights of all the parties to the suit, according to equity and good conscience. It is a declaration of the court announcing the legal consequences of the facts found. With the procedural merger of law and equity in the federal and most state courts under the Rules of Civil Procedure, the term *judgment* has generally replaced *decree*.

Deductible

That which may be taken away or subtracted. In taxation, an item that may be subtracted from gross income or adjusted gross income in determining taxable income (e.g., interest expenses, charitable contributions, certain taxes). The portion of an insured loss to be borne by the insured before he or she is entitled to recovery from the insurer.

Deduction

That which is deducted; the part taken away; abatement; as in deductions from gross income in arriving at net income for tax purposes. In civil law, a portion or thing that an heir has a right to take from the mass of the succession before any partition takes place.

Deed

A written instrument, which has been signed and delivered, by which one individual, the grantor, conveys title to real property to another individual, the grantee; a conveyance of land, tenements, or hereditaments, from one individual to another.

Deed of trust

A document that embodies the agreement between a lender and a borrower to transfer an interest in the borrower's land to a neutral third party, a trustee, to secure the payment of a debt by the borrower.

Defamation

Any intentional false communication, either written or spoken, that harms a person's reputation; decreases the respect, regard, or confidence in which a person is held; or induces disparaging, hostile, or disagreeable opinions or feelings against a person.

Default

An omission; a failure to do that which is anticipated, expected, or required in a given situation.

Default judgment

Judgment entered against a party who has failed to defend against a claim that has been brought by another party. Under rules of civil procedure, when a party against whom a judgment for affirmative relief is sought has failed to plead (i.e., answer) or otherwise defend, the party is in default and a judgment by default may be entered either by the clerk or the court.

Defendant

The person defending or denying; the party against whom relief or recovery is sought in an action or suit, or the accused in a criminal case.

Defraud

To make a misrepresentation of an existing material fact, knowing it to be false or making it recklessly without regard to whether it is true or false, intending for someone to rely on the misrepresentation and under circumstances in which such person does rely on it to his or her damage. To practice fraud; to cheat or trick. To deprive a person of property or any interest, estate, or right by fraud, deceit, or artifice.

Deportation

Banishment to a foreign country, attended with confiscation of property and deprivation of civil rights. The transfer of an alien, by exclusion or expulsion, from the United States to a foreign country. The removal or sending back of an alien to the country from which he or she came because his or her presence is deemed inconsistent with the public welfare, and without any punishment being imposed or contemplated. The grounds for deportation are set forth at 8 U.S.C.A. § 1251 and the procedures are provided for in §§ 1252-1254.

Deposition

The testimony of a party or witness in a civil or criminal proceeding taken before trial, usually in an attorney's office.

Depository

The place where a deposit is placed and kept, e.g., a bank savings and loan institution, credit union, or trust company. A place where something is deposited or stored as for safekeeping or convenience, e.g., a safety deposit box.

Depreciation

The gradual decline in the financial value of property used to produce income due to its increasing age and eventual obsolescence, which is measured by a formula that takes into account these factors in addition to the cost of the property and its estimated useful life.

Detainer

The act (or the juridical fact) of withholding from a lawfully entitled person the possession of land or goods, or the restraint of a person's personal liberty against his or her will; detention. The wrongful keeping of a person's goods is called an unlawful detainer although the original taking may have been lawful. A request filed by a criminal justice agency with the institution in which a prisoner is incarcerated asking the institution either to hold the prisoner for the agency or to notify the agency when release of the prisoner is imminent.

Direct examination

The primary questioning of a witness during a trial that is conducted by the side for which that person is acting as a witness.

Directed verdict

A procedural device whereby the decision in a case is taken out of the hands of the jury by the judge.

Disability

The lack of competent physical and mental faculties; the absence of legal capability to perform an act. The term *disability* usually signifies an incapacity to exercise all the legal rights ordinarily possessed by an average person. Convicts, minors, and incompetents are regarded to be under a disability. The term is also used in a more restricted sense when it indicates a hindrance to marriage or a deficiency

in legal qualifications to hold office. The impairment of earning capacity; the loss of physical function resulting in diminished efficiency; the inability to work.

Disabled persons

Persons who have a physical or mental impairment that substantially limits one or more major life activities. Some laws also include in their definition of disabled persons those people who have a record of or are regarded as having such an impairment.

Discovery

A category of procedural devices employed by a party to a civil or criminal action, prior to trial, to require the adverse party to disclose information that is essential for the preparation of the requesting party's case and that the other party alone knows or possesses.

Discrimination

In constitutional law, the grant by statute of particular privileges to a class arbitrarily designated from a sizable number of persons, where no reasonable distinction exists between the favored and disfavored classes. Federal laws, supplemented by court decisions, prohibit discrimination in such areas as employment, housing, voting rights, education, and access to public facilities. They also proscribe discrimination on the basis of race, age, sex, nationality, disability, or religion. In addition, state and local laws can prohibit discrimination in these areas and in others not covered by federal laws.

Dismissal

A discharge of an individual or corporation from employment. The disposition of a civil or criminal proceeding or a claim or charge made therein by a court order without a trial or prior to its completion which, in effect, is a denial of the relief sought by the commencement of the action.

Disposition

Act of disposing; transferring to the care or possession of another. The parting with, alienation of, or giving up of property. The final settlement of a matter and, with reference to decisions announced by a court, a judge's ruling is commonly referred to as disposition, regardless of level of resolution. In criminal procedure, the sentencing or other final settlement of a criminal case. With respect to a mental state, denotes an attitude, prevailing tendency, or inclination.

Dissolution

Act or process of dissolving; termination; winding up. In this sense it is frequently used in the phrase dissolution of a partnership.

Dissolve

To terminate; abrogate; cancel; annul; disintegrate. To release or unloose the binding force of anything.

Dividend

The distribution of current or accumulated earnings to the shareholders of a corporation pro rata based on the number of shares owned. Dividends are usually issued in cash. However, they may be issued in the form of stock or property. The dividend on preferred shares is generally a fixed amount; however, on common shares the dividend varies depending on such things as the earnings and available cash of the corporation as well as future plans for the acquisition of property and equipment by the corporation.

Divorce

A court decree that terminates a marriage; also known as marital dissolution.

Docket

A written list of judicial proceedings set down for trial in a court. To enter the dates of judicial proceedings scheduled for trial in a book kept by a court.

Documentary evidence

A type of written proof that is offered at a trial to establish to existence or nonexistence of a fact that is in dispute.

Domestic violence

Encyclopedia of Everyday Law - Resources: Glossary

Any abusive, violent, coercive, forceful, or threatening act or word inflicted by one member of a family or household on another can constitute domestic violence.

Donor

The party conferring a power. One who makes a gift. One who creates a trust.

Double jeopardy

A second prosecution for the same offense after acquittal or conviction or multiple punishments for same offense. The evil sought to be avoided by prohibiting double jeopardy is double trial and double conviction, not necessarily double punishment.

Down payment

A percentage of the total purchase price of an item that is proffered when the item is bought on credit.

Drunkenness

The state of an individual whose mind is affected by the consumption of alcohol.

Dual nationality

An equal claim, simultaneously possessed by two nations, to the allegiance of an individual.

Due process of law

A fundamental, constitutional guarantee that all legal proceedings will be fair and that one will be given notice of the proceedings and an opportunity to be heard before the government acts to take away one's life, liberty, or property. Also, a constitutional guarantee that a law shall not be unreasonable, arbitrary, or capricious.

Duress

Unlawful pressure exerted upon a person to coerce that person to perform an act that he or she ordinarily would not perform.

Durham rule

A principle of criminal law used to determine the validity of the insanity defense asserted by an accused, that he or she was insane at the time of committing a crime and therefore should not be held legally responsible for the action.

DWI

An abbreviation for *driving while intoxicated*, which is an offense committed by an individual who operates a motor vehicle while under the influence of alcohol or drugs and narcotics. An abbreviation for *died without issue*, which commonly appears in genealogical tables.

E

Earned income

Sources of money derived from the labor, professional service, or entrepreneurship of an individual taxpayer as opposed to funds generated by investments, dividends, and interest.

Easement

A right of use over the property of another. Traditionally the permitted kinds of uses were limited,

the most important being rights of way and rights concerning flowing waters. The easement was normally for the benefit of adjoining lands, no matter who the owner was (an easement appurtenant), rather than for the benefit of a specific individual (easement in gross).

EEOC

An abbreviation for Equal Employment Opportunity Commission.

Emancipation

The act or process by which a person is liberated from the authority and control of another person.

Employee Retirement Income Security Act

The name of federal legislation, popularly abbreviated as ERISA (29 U.S.C.A. § 1001 et seq. [1974]), which regulates the financing, vesting, and administration of pension plans for workers in private

business and industry.

Encroachment

An illegal intrusion in a highway or navigable river, with or without obstruction. An encroachment upon a street or highway is a fixture, such as a wall or fence, which illegally intrudes into or invades the highway or encloses a portion of it, diminishing its width or area, but without closing it to public travel.

Entrapment

The act of government agents or officials that induces a person to commit a crime he or she is not previously disposed to commit.

Equal protection

The constitutional guarantee that no person or class of persons shall be denied the same protection of the laws that is enjoyed by other persons or other classes in like circumstances in their lives, liberty, property, and pursuit of happiness.

Equal Rights Amendment

A proposed addition to the U.S. Constitution that read, "Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex," and that failed to receive ratification by the required number of states.

Equity of redemption

The right of a mortgagor, that is, a borrower who obtains a loan secured by a pledge of his or her real property, to prevent foreclosure proceedings by paying the amount due on the loan, a mortgage, plus interest and other expenses after having failed to pay within the time and according to the terms specified therein.

Escrow

Something of value, such as a deed, stock, money, or written instrument, that is put into the custody of a third person by its owner, a grantor, an obligor, or a promisor, to be retained until the occurrence of a contingency or performance of a condition.

Espionage

The act of securing information of a military or political nature that a competing nation holds secret. It can involve the analysis of diplomatic reports, publications, statistics, and broadcasts, as well as spying, a clandestine activity carried out by an individual or individuals working under a secret identity for the benefit of a nation's information gathering techniques. In the United States, the organization that heads most activities dedicated to espionage is the Central Intelligence Agency.

Estimated tax

Federal and state tax laws require a quarterly payment of estimated taxes due from corporations, trusts, estates, non-wage employees, and wage employees with income not subject to withholding. Individuals must remit at least 100 percent of their prior year tax liability or 90 percent of their current year tax liability in order to avoid an underpayment penalty. Corporations must pay at least 90 percent of their current year tax liability in order to avoid an underpayment penalty. Additional taxes due, if any, are paid on taxpayer's annual tax return.

Estoppel

A legal principle that precludes a party from denying or alleging a certain fact owing to that party's previous conduct, allegation, or denial.

Eviction

The removal of a tenant from possession of premises in which he or she resides or has a property interest, done by a landlord either by reentry upon the premises or through a court action.

Evidence

Any matter of fact that a party to a lawsuit offers to prove or disprove an issue in the case. A system of rules and standards used to determine which facts may be admitted, and to what extent a judge or jury may consider those facts, as proof of a particular issue in a lawsuit.

Examination

A search, inspection, or interrogation. In criminal procedure, the preliminary hearing held to decide whether a suspect arrested for a crime should be brought to trial. In trial practice, the interrogation of a witness to elicit his or her testimony in a civil or criminal action, so that the facts he or she possesses are presented before the trial of fact for consideration. In the law governing real property transactions, an investigation made into the history of the ownership of and conditions that exist upon land so that a purchaser can determine whether a seller is entitled to sell the land free and clear of any claims made by third persons. In patent law, an inquiry made at the Patent and Trademark Office to determine the novelty and utility of an invention for which a patent application has been filed and whether the invention interferes with any other invention.

Examiner

An official or other person empowered by another—whether an individual, business, or government agency—to investigate and review specified documents for accuracy and truthfulness. A court-appointed officer, such as a master or referee, who inspects evidence presented to resolve controverted matters and records statements made by witnesses in the particular proceeding pending before that court. A government employee in the Patent and Trademark Office whose duty it is to scrutinize the application made for a patent by an inventor to determine whether the invention meets the statutory requirements of patentability. A federal employee of the Internal Revenue Service who reviews income tax returns for accuracy and truthfulness.

Excise

A tax imposed on the performance of an act, the engaging in an occupation, or the enjoyment of a privilege.

A tax on the manufacture, sale, or use of goods or on the carrying on of an occupation or activity, or a tax on the transfer of property. In current usage the term has been extended to include various license fees and practically every internal revenue tax except the income tax (e.g., federal alcohol and tobacco excise taxes).

Exclusionary rule

The principle based on federal constitutional law that evidence illegally seized by law enforcement officers in violation of a suspect's right to be free from unreasonable searches and seizures cannot be used against the suspect in a criminal prosecution.

Execution

The carrying out of some act or course of conduct to its completion. In criminal law, the carrying out of a death sentence (see also capital punishment). The process whereby an official, usually a sheriff, is directed by an appropriate judicial writ to seize and sell as much of a debtor's nonexempt property as is necessary to satisfy a court's monetary judgment. With respect to contracts, the performance of all acts necessary to render a contract complete as an instrument, which conveys the concept that nothing remains to be done to make a complete and effective contract.

Executive branch

The branch of the U.S. government that is composed of the president and all the individuals, agencies, and departments that report to the president, and that is responsible for administering and enforcing the laws that Congress passes.

Executive orders

Presidential policy directives that implement or interpret a federal statute, a constitutional provision, or a treaty.

Extortion

The obtaining of property from another induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right.

Extradition

The transfer of an accused from one state or country to another state or country that seeks to place the accused on trial.

F

Fair Credit Reporting Act

Legislation embodied in title VI of the Consumer Credit Protection Act (15 U.S.C.A. § 1681 et seq. [1968]), which was enacted by Congress in 1970 to ensure that reporting activities relating to various consumer transactions are conducted in a manner that is fair to the affected individual, and to protect the consumer's right to privacy against the informational demands of a credit reporting company.

Fair hearing

A judicial proceeding that is conducted in such a manner as to conform to fundamental concepts of justice and equality.

Fair Labor Standards Act

Federal legislation enacted in 1938 by Congress, pursuant to its power under the Commerce Clause, that mandated a minimum wage and forty-hour work week for employees of those businesses engaged in interstate commerce.

Fair market value

The amount for which real property or personal property would be sold in a voluntary transaction between a buyer and seller, neither of whom is under any obligation to buy or sell.

Fairness doctrine

The doctrine that imposes affirmative responsibilities on a broadcaster to provide coverage of issues of public importance that is adequate and fairly reflects differing viewpoints. In fulfilling its fairness doctrine obligations, a broadcaster must provide free time for the presentation of opposing views if a paid sponsor is unavailable and must initiate programming on public issues if no one else seeks to do so.

False advertising

"Any advertising or promotion that misrepresents the nature, characteristics, qualities or geographic origin of goods, services or commercial activities" (Lanham Act, 15 U.S.C.A. § 1125(a)).

False arrest

A tort (a civil wrong) that consists of an unlawful restraint of an individual's personal liberty or freedom of movement by another purporting to act according to the law.

False pretenses

False representations of past or present material facts, known by the wrongdoer to be false, made with the intent to defraud a victim into passing title in property to the wrongdoer.

Family law

Statutes, court decisions, and provisions of the federal and state constitutions that relate to family relationships, rights, duties, and finances.

Fatal

Deadly or mortal; destructive; devastating.

Felon

An individual who commits a crime of a serious nature, such as burglary or murder. A person who commits a felony.

Felony

A serious crime, characterized under federal law and many state statutes as any offense punishable by death or imprisonment in excess of one year.

Fiduciary

An individual in whom another has placed the utmost trust and confidence to manage and protect property or money. The relationship wherein one person has an obligation to act for another's benefit.

Finance charge

The amount owed to a lender by a purchaser-debtor to be allowed to pay for goods purchased over a series of installments, as opposed to one lump sum at the time of the sale or billing.

Financial statement

Any report summarizing the financial condition or financial results of a person or an organization on any date or for any period. Financial statements include the balance sheet and the income statement and sometimes the statement of changes in financial position.

Fingerprints

Impressions or reproductions of the distinctive pattern of lines and grooves on the skin of human fingertips.

Fiscal

Relating to finance or financial matters, such as money, taxes, or public or private revenues.

Foreclosure

A procedure by which the holder of a mortgage—an interest in land providing security for the performance of a duty or the payment of a debt—sells the property upon the failure of the debtor to pay the mortgage debt and, thereby, terminates his or her rights in the property.

Forfeit

To lose to another person or to the state some privilege, right, or property due to the commission of an error, an offense, or a crime, a breach of contract, or a neglect of duty; to subject property to confiscation; or to become liable for the payment of a penalty, as the result of a particular act. To lose a franchise, estate, or other property, as provided by the applicable law, due to negligence, misfeasance, or omission.

Forfeiture

The involuntary relinquishment of money or property without compensation as a consequence of a breach or nonperformance of some legal obligation or the commission of a crime. The loss of a corporate charter or franchise as a result of illegality, malfeasance, or nonfeasance. The surrender by an owner of her or his entire interest in real property mandated by law as a punishment for illegal conduct or negligence. In old English law, the release of land by a tenant to the tenant's lord due to some breach of conduct, or the loss of goods or chattels (articles of personal property) assessed as a penalty against the perpetrator of some crime or offense and as a recompense to the injured party.

Forgery

The creation of a false written document or alteration of a genuine one, with the intent to defraud.

Fraud

A false representation of a matter of fact— whether by words or by conduct, by false or misleading allegations, or by concealment of what should have been disclosed—that deceives and is intended to deceive another so that the individual will act upon it to her or his legal injury.

Fraudulent

The description of a willful act commenced with the specific intent to deceive or cheat, in order to cause some financial detriment to another and to engender personal financial gain.

Freedom of Information Act

A federal law (5 U.S.C.A. § 552 et seq.) providing for the disclosure of information held by administrative agencies to the public, unless the documents requested fall into one of the specific exemptions set forth in the statute.

Freedom of speech

The right, guaranteed by the First Amendment to the U.S. Constitution, to express beliefs and ideas without unwarranted government restriction.

Freedom of the press

The right, guaranteed by the First Amendment to the U.S. Constitution, to gather, publish, and distribute information and ideas without government restriction; this right encompasses freedom from prior restraints on publication and freedom from censorship.

Friend of the court

A person who has a strong interest in a matter that is the subject of a lawsuit in which he or she is not a party.

Frisk

A term used in criminal law to refer to the superficial running of the hands over the body of an individual by a law enforcement agent or official in order to determine whether such individual is holding an illegal object, such as a weapon or narcotics.

G

Gerrymander

The process of dividing a particular state or territory into election districts in such a manner as to accomplish an unlawful purpose, such as to give one party a greater advantage.

GI Bill

Federal legislation that created a comprehensive package of benefits, including financial assistance for higher education, for veterans of U.S. military service.

Glass-Steagall Act

Legislation passed by Congress in 1933 that prohibits commercial banks from engaging in the investment business.

Good faith

Honesty; a sincere intention to deal fairly with others.

Grace period

In insurance law, a period beyond the due date of a premium (usually thirty or thirty-one days) during which the insurance is continued in force and during which the payment may be made to keep the policy in good standing. The grace period for payment of the premium does not provide free insurance or operate to continue the policy in force after it expires by agreement of the parties. *Grace period* may also refer to a period of time provided for in a loan agreement during which default will not occur even though a payment is overdue.

Grand jury

A panel of citizens that is convened by a court to decide whether it is appropriate for the government to indict (proceed with a prosecution against) someone suspected of a crime.

Grandfather clause

A portion of a statute that provides that the law is not applicable in certain circumstances due to preexisting facts.

Green card

The popular name for the Alien Registration Receipt Card issued to all immigrants entering the United States on a non-temporary visa who have registered with and been fingerprinted by the Immigration and Naturalization Service. The name *green card* comes from the distinctive coloration of the card.

Gross income

The financial gains received by an individual or a business during a fiscal year.

Gross negligence

An indifference to, and a blatant violation of, a legal duty with respect to the rights of others.

Guaranty

As a verb, to agree to be responsible for the payment of another's debt or the performance of another's duty, liability, or obligation if that person does not perform as he or she is legally obligated to do; to assume the responsibility of a guarantor; to warrant. As a noun, an undertaking or promise that is collateral to the primary or principal obligation and that binds the guarantor to performance in the event of nonperformance by the principal obligor.

Guardian

A person lawfully invested with the power, and charged with the obligation, of taking care of and managing the property and rights of a person who, because of age, understanding, or self-control, is

considered incapable of administering his or her own affairs.

Guardian ad litem

A guardian appointed by the court to represent the interests of infants, the unborn, or incompetent persons in legal actions.

Gun control

Government regulation of the manufacture, sale, and possession of firearms.

H

Habeas corpus

[*Latin, You have the body.*] A writ (court order) that commands an individual or a government official who has restrained another to produce the prisoner at a designated time and place so that the court can determine the legality of custody and decide whether to order the prisoner's release.

Habitability

Fitness for occupancy. The requirement that rented premises, such as a house or apartment, be reasonably fit to occupy.

Habitual

Regular or customary; usual.

Head of household

An individual in one family setting who provides actual support and maintenance to one or more individuals who are related to him or her through adoption, blood, or marriage.

Hearing

A legal proceeding where an issue of law or fact is tried and evidence is presented to help determine the issue.

Hearsay

A statement made out of court that is offered in court as evidence to prove the truth of the matter asserted.

Heir

An individual who receives an interest in, or ownership of, land, tenements, or hereditaments from an ancestor who has died intestate, through the laws of descent and distribution. At common law, an heir was the individual appointed by law to succeed to the estate of an ancestor who died without a will. It is commonly used today in reference to any individual who succeeds to property, either by will or law.

Holding company

A corporation that limits its business to the ownership of stock in and the supervision of management of other corporations.

Homestead

The dwelling house and its adjoining land where a family resides. Technically, and pursuant to the modern homestead exemption laws, an artificial estate in land, created to protect the possession and enjoyment of the owner against the claims of creditors by preventing the sale of the property for payment of the owner's debts so long as the land is occupied as a home.

Homicide

The killing of one human being by another human being.

Human rights

Personal liberties that protect individuals and groups against individual or state conduct prohibited by international law or custom.

Hung jury

A trial jury duly selected to make a decision in a criminal case regarding a defendant's guilt or innocence, but who are unable to reach a verdict due to a complete division in opinion.

I

Immigration

The entrance into a country of foreigners for purposes of permanent residence. The correlative term *emigration* denotes the act of such persons in leaving their former country.

Immunity

Exemption from performing duties that the law generally requires other citizens to perform, or from a penalty or burden that the law generally places on other citizens.

Impartial

Favoring neither; disinterested; treating all alike;; unbiased; equitable, fair, and just.

Impeach

To accuse; to charge a liability upon; to sue. To dispute, disparage, deny, or contradict; as in to impeach a judgment or decree, or impeach a witness; or as used in the rule that a jury cannot *impeach its verdict*. To proceed against a public officer for crime or misfeasance, before a proper court, by the presentation of a written accusation called articles of impeachment.

Impeachment

A process used to charge, try, and remove public officials for misconduct while in office.

Implied consent

Consent that is inferred from signs, actions, or facts, or by inaction or silence.

Implied warranty

A promise, arising by operation of law, that something that is sold will be merchantable and fit for the purpose for which it is sold.

Imprisonment

Incarceration; the act of restraining the personal liberty of an individual; confinement in a prison.

In re

[*Latin, In the matter of.*] Concerning or regarding. The usual style for the name of a judicial proceeding having some item of property at the center of the dispute rather than adverse parties.

Inadmissible

That which, according to established legal principles, cannot be received into evidence at a trial for consideration by the jury or judge in reaching a determination of the action.

Incarceration

Confinement in a jail or prison; imprisonment.

Incest

The crime of sexual relations or marriage taking place between a male and female who are so closely linked by blood or affinity that such activity is prohibited by law.

Income tax

A charge imposed by government on the annual gains of a person, corporation, or other taxable unit derived through work, business pursuits, investments, property dealings, and other sources determined in accordance with the Internal Revenue Code or state law.

Incompetency

The lack of ability, knowledge, legal qualification, or fitness to discharge a required duty or professional obligation.

Incriminate

To charge with a crime; to expose to an accusation or a charge of crime; to involve oneself or another in a criminal prosecution or the danger thereof; as in the rule that a witness is not bound to give testimony that would tend to incriminate him or her.

Independent contractor

A person who contracts to do a piece of work according to her or his own methods and is subject to another's control only as to the end product or the final result of the work.

I

Indictment

A written accusation charging that an individual named therein has committed an act or omitted to do something that is punishable by law.

Individual Retirement Account

A means by which an individual can receive certain federal tax advantages while investing for retirement.

Informed consent

Assent to permit an occurrence, such as surgery, that is based on a complete disclosure of facts needed to make the decision intelligently, such as knowledge of the risks entailed or alternatives. The name for a fundamental principle of law that a physician has a duty to reveal what a reasonably prudent physician in the medical community employing reasonable care would reveal to a patient as to whatever reasonably foreseeable risks of harm might result from a proposed course of treatment. This disclosure must be afforded so that a patient—exercising ordinary care for his or her own welfare and confronted with a choice of undergoing the proposed treatment, alternative treatment, or none at all—can intelligently exercise judgment by reasonably balancing the probable risks against the probable benefits.

Infraction

Violation or infringement; breach of a statute, contract, or obligation.

Infringement

The encroachment, breach, or violation of a right, law, regulation, or contract.

Inherit

To receive property according to the state laws of intestate succession from a decedent who has failed to execute a valid will, or, where the term is applied in a more general sense, to receive the property of a decedent by will.

Inheritance

Property received from a decedent, either by will or through state laws of intestate succession, where the decedent has failed to execute a valid will.

Insanity defense

A defense asserted by an accused in a criminal prosecution to avoid liability for the commission of a crime because, at the time of the crime, the person did not appreciate the nature or quality or wrongfulness of the acts.

Insolvency

An incapacity to pay debts upon the date when they become due in the ordinary course of business; the condition of an individual whose property and assets are inadequate to discharge the person's debts.

Installment

Regular, partial portion of the same debt, paid at successive periods as agreed by a debtor and creditor.

Internal audit

An inspection and verification of the financial records of a company or firm by a member of its own staff to determine the accuracy and acceptability of its accounting practices.

Intestacy

The state or condition of dying without having made a valid will or without having disposed by will of a segment of the property of the decedent.

Intestate

The description of a person who dies without making a valid will or the reference made to this condition.

Intestate succession

The inheritance of an ancestor's property according to the laws of descent and distribution that are applied when the deceased has not executed a valid will.

Intoxication

A state in which a person's normal capacity to act or reason is inhabited by alcohol or drugs.

Involuntary manslaughter

The act of unlawfully killing another human being unintentionally.

Irreconcilable differences

The existence of significant differences between a married couple that are so great and beyond resolution as to make the marriage unworkable, and for which the law permits a divorce.

IRS

An abbreviation for the Internal Revenue Service.

Itemize

To individually state each item or article.

J

Jeopardy

Danger; hazard; peril. In a criminal action, the danger of conviction and punishment confronting the defendant.

Joint venture

An association of two or more individuals or companies engaged in a solitary business enterprise for profit without actual partnership or incorporation; also called a joint adventure.

Judicial review

A court's authority to examine an executive or legislative act and to invalidate that act if it is contrary to constitutional principles.

Jurisdiction

The geographic area over which authority extends; legal authority; the authority to hear and determine causes of action.

Jurisprudence

From the Latin term *juris prudentia*, which means "the study, knowledge, or science of law"; in the United States, more broadly associated with the philosophy of law.

Just cause

A reasonable and lawful ground for action.

Justice Department

The Department of Justice (DOJ) is the executive-branch department responsible for handling the legal work of the federal government.

Justice of the peace

A judicial officer with limited power whose duties may include hearing cases that involve civil controversies, conserving the peace, performing judicial acts, hearing minor criminal complaints, and committing offenders.

K

Kidnapping

The crime of unlawfully seizing and carrying away a person by force or fraud, or seizing and detaining a person against his or her will with an intent to carry that person away at a later time.

L

Labor law

An area of the law that deals with the rights of employers, employees, and labor organizations.

Labor union

An association, combination, or organization of employees who band together to secure favorable wages, improved working conditions, and better work hours, and to resolve grievances against employers.

Landlord

A lessor of real property; the owner or possessor of an estate in land or a rental property, who, in an exchange for rent, leases it to another individual known as the tenant.

Landlord and tenant

An association between two individuals arising from an agreement by which one individual occupies the other's real property with permission, subject to a rental fee.

Lanham Act

A federal statute enacted in 1946 and subsequently amended to revise trademark law.

Larceny

The unauthorized taking and removal of the personal property of another by a person who intends to permanently deprive the owner of it; a crime against the right of possession.

Leading question

A query that suggests to the witness how it is to be answered or puts words into the mouth of the witness to be merely repeated in his or her response.

Lease

A contractual agreement by which one party conveys an estate in property to another party, for a limited period, subject to various conditions, in exchange for something of value, but still retains ownership.

Legal age

The time of life at which a person acquires full capacity to make his or her own contracts and deeds and to transact business or to enter into some particular contract or relation, such as marriage.

Legal proceedings

All actions that are authorized or sanctioned by law and instituted in a court or a tribunal for the acquisition of rights or the enforcement of remedies.

Legal representative

In its broadest sense, one who stands in place of, and represents the interests of, another. A person who oversees the legal affairs of another. Examples include the executor or administrator of an estate and a court appointed guardian of a minor or incompetent person. This term is almost always held to be synonymous with the term *personal representative*. In accident cases, the member of the family entitled to benefits under a wrongful death statute.

Legal residence

The place of domicile—the permanent dwelling—to which a person intends to return despite temporary abodes elsewhere or momentary absences.

Legal right

An interest that the law protects; an enforceable claim; a privilege that is created or recognized by law, such as the constitutional right to freedom of speech.

Lemon laws

Laws governing the rights of purchasers of new and used motor vehicles that do not function properly and which have to be returned repeatedly to the dealer for repairs.

Lessee

One who rents real property or personal property from another.

Lessor

One who rents real property or personal property to another.

Libel and slander

Two torts that involve the communication of false information about a person, a group, or an entity such as a corporation. Libel is any defamation that can be seen, such as a writing, printing, effigy, movie, or statue. Slander is any defamation that is spoken and heard.

Libelous

In the nature of a written defamation, a communication that tends to injure reputation.

Lien

A right given to another by the owner of property to secure a debt, or one created by law in favor of certain creditors.

Life or limb

The phrase within the Fifth Amendment to the U.S. Constitution, commonly known as the Double Jeopardy Clause, that provides, "nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb," pursuant to which there can be no second prosecution after a first trial for the same offense.

Limited liability company

A noncorporate business whose owners actively participate in the organization's management and are protected against personal liability for the organization's debts and obligations.

Limited liability partnership

A form of general partnership that provides an individual partner protection against personal liability for certain partnership obligations.

Line of credit

The maximum borrowing power granted to a person from a financial institution.

Lineup

A criminal investigation technique in which the police arrange a number of individuals in a row before a witness to a crime and ask the witness to identify which, if any, of the individuals committed the crime.

Liquidate

To pay and settle the amount of a debt; to convert assets to cash; to aggregate the assets of an insolvent enterprise and calculate its liabilities in order to settle with the debtors and the creditors and apportion the remaining assets, if any, among the stockholders or owners of the corporation.

Liquidation

The collection of assets belonging to a debtor to be applied to the discharge of his or her outstanding debts. A type of proceeding pursuant to federal bankruptcy law by which certain property of a debtor is taken into custody by a trustee to be sold, the proceeds to be distributed to the debtor's creditors in satisfaction of their claims. The settlement of the financial affairs of a business or individual through the sale of all assets and the distribution of the proceeds to creditors, heirs, or other parties with a legal claim.

Litigation

An action brought in court to enforce a particular right. The act or process of bringing a lawsuit in and of itself; a judicial contest; any dispute.

Living trust

A property right, held by one party for the benefit of another, that becomes effective during the lifetime of the creator and is, therefore, in existence upon his or her death.

Living will

A written document that allows a patient to give explicit instructions about medical treatment to be administered when the patient is terminally ill or permanently unconscious; also called an advance directive.

Lobbying

The process of influencing public and government policy at all levels: federal, state, and local.

Loco parentis

[*Latin, The place of a parent.*] A description of the relationship that an adult or an institution assumes toward an infant or minor of whom the adult is not a parent but to whom the adult or institution owes the obligation of care and supervision.

M

M'Naghten Rule

A test applied to determine whether a person accused of a crime was sane at the time of its commission and, therefore, criminally responsible for the wrongdoing.

Magistrate

Any individual who has the power of a public civil officer or inferior judicial officer, such as a justice of the peace.

Magnuson-Moss Warranty Act

The first federal statute to address the law of warranty. The act (15 U.S.C.A. § 2301 et seq.) mandates that a written warranty on any consumer product that costs more than \$5 must completely and conspicuously disclose, in easily understood words, the terms and conditions of the warranty. A warranty may guarantee several things, such as that the item will perform in a certain way or that the manufacturer will repair or replace the item if it is defective.

Mail fraud

A crime in which the perpetrator develops a scheme using the mails to defraud another of money or property. This crime specifically requires the intent to defraud, and is a federal offense governed by section 1341 of title 18 of the U.S. Code. The mail fraud statute was first enacted in 1872 to prohibit illicit mailings with the Postal Service (formerly the Post Office) for the purpose of executing a fraudulent scheme.

Malice

The intentional commission of a wrongful act, absent justification, with the intent to cause harm to others; conscious violation of the law that injures another individual; a mental state indicating a disposition in disregard of social duty and a tendency toward malfeasance.

Malpractice

The breach by a member of a profession of either a standard of care or a standard of conduct.

Managed care

A general term that refers to health plans that attempt to control the cost and quality of care by coordinating medical and other health-related services.

Manslaughter

The unjustifiable, inexcusable, and intentional killing of a human being without deliberation, premeditation, and malice. The unlawful killing of a human being without any deliberation, which may be involuntary, in the commission of a lawful act without due caution and circumspection.

Market value

The highest price a willing buyer would pay and a willing seller would accept, both being fully informed, and the property being exposed for sale for a reasonable period of time. The market value may be different from the price a property can actually be sold for at a given time (market price). The market value of an article or piece of property is the price that it might be expected to bring if offered for sale in a fair market; not the price that might be obtained on a sale at public auction or a sale forced by the necessities of the owner, but such a price as would be fixed by negotiation and mutual agreement, after ample time to find a purchaser, as between a vendor who is willing (but not compelled) to sell and a purchaser who desires to buy but is not compelled to take the particular article or piece of property.

Mediation

A settlement of a dispute or controversy by setting up an independent person between two contending parties in order to aid them in the settlement of their disagreement.

Medicaid

A joint federal-state program that provides health care insurance to low-income persons.

Medical malpractice

Improper, unskilled, or negligent treatment of a patient by a physician, dentist, nurse, pharmacist, or other health care professional.

Medicare

A federally funded system of health and hospital insurance for persons age sixty-five and older and for disabled persons.

Mental anguish

When connected with a physical injury, includes both the resultant mental sensation of pain and also the accompanying feelings of distress, fright, and anxiety. As an element of damages implies a relatively high degree of mental pain and distress; it is more than mere disappointment, anger, worry, resentment, or embarrassment, although it may include all of these, and it includes mental sensation of pain resulting from such painful emotions as grief, severe disappointment, indignation, wounded pride, shame, despair, and/or public humiliation. In other connections, and as a ground for divorce or for compensable damages or an element of damages, it includes the mental suffering resulting from the excitation of the more poignant and painful emotions, such as grief, severe disappointment, indignation, wounded pride, shame, public humiliation, despair, etc.

Militia

A group of private citizens who train for military duty to be ready to defend their state or country in times of emergency. A militia is distinct from regular military forces, which are units of professional soldiers maintained both in war and peace by the federal government.

Minimum wage

The minimum hourly rate of compensation for labor, as established by federal statute and required of employers engaged in businesses that affect interstate commerce. Most states also have similar statutes governing minimum wages.

Misdemeanor

Offenses lower than felonies and generally those punishable by fine, penalty, forfeiture, or imprisonment other than in a penitentiary. Under federal law, and most state laws, any offense other than a felony is classified as a misdemeanor. Certain states also have various classes of misdemeanors (e.g., Class A, B, etc.).

Mistrial

A courtroom trial that has been terminated prior to its normal conclusion. A mistrial has no legal effect and is considered an invalid or nugatory trial. It differs from a "new trial," which recognizes that a trial was completed but was set aside so that the issues could be tried again.

Mitigating circumstances

Circumstances that may be considered by a court in determining culpability of a defendant or the extent of damages to be awarded to a plaintiff. Mitigating circumstances do not justify or excuse an offense but may reduce the severity of a charge. Similarly, a recognition of mitigating circumstances to reduce a damage award does not imply that the damages were not suffered but that they have been partially ameliorated.

Money laundering

The process of taking the proceeds of criminal activity and making them appear legal.

Monopoly

An economic advantage held by one or more persons or companies deriving from the exclusive power to carry on a particular business or trade or to manufacture and sell a particular item, thereby suppressing competition and allowing such persons or companies to raise the price of a product or service substantially above the price that would be established by a free market.

Mortgage

A legal document by which the owner (buyer) transfers to the lender an interest in real estate to secure the repayment of a debt, evidenced by a mortgage note. When the debt is repaid, the mortgage is discharged, and a satisfaction of mortgage is recorded with the register or recorder of deeds in the county where the mortgage was recorded. Because most people cannot afford to buy real estate with cash, nearly every real estate transaction involves a mortgage.

Mutual fund

A fund, in the form of an investment company, in which shareholders combine their money to invest in a variety of stocks, bonds, and money-market investments such as U.S. Treasury bills and bank certificates of deposit.

N

Negligence

Conduct that falls below the standards of behavior established by law for the protection of others against unreasonable risk of harm. A person has acted negligently if he or she has departed from the conduct expected of a reasonably prudent person acting under similar circumstance. Negligence is also the name of a cause of action in the law of torts. To establish negligence, a plaintiff must prove that the defendant had a duty to the plaintiff, the defendant breached that duty by failing to conform to the required standard of conduct, the defendant's negligent conduct was the cause of the harm to the plaintiff, and the plaintiff was, in fact, harmed or damaged.

Net

The sum that remains following all permissible deductions, including charges, expenses, discounts, commissions, or taxes.

Next of kin

The blood relatives entitled by law to inherit the property of a person who dies without leaving a valid will, although the term is sometimes interpreted to include a relationship existing by reason of marriage. See also descent and distribution.

No fault

A kind of automobile insurance that provides that each driver must collect the allowable amount of money from his or her own insurance carrier subsequent to an accident regardless of who was at fault.

Notary public

A public official whose main powers include administering oaths and attesting to signatures, both important and effective ways to minimize fraud in legal documents.

O

Obscenity

The character or quality of being obscene; an act, utterance, or item tending to corrupt the public morals by its indecency or lewdness.

Occupancy

Gaining or having physical possession of real property subject to, or in the absence of, legal right or title.

Open court

Common law requires a trial in open court; "open court" means a court to which the public has a right to be admitted. This term may mean either a court that has been formally convened and declared open for the transaction of its proper judicial business or a court that is freely open to spectators.

Ordinance

A law, statute, or regulation enacted by a municipal corporation.

Out-of-court settlement

An agreement reached between the parties in a pending lawsuit that resolves the dispute to their mutual satisfaction and occurs without judicial intervention, supervision, or approval.

P

Pardon

The action of an executive official of the government that mitigates or sets aside the punishment for a crime.

Parole

The conditional release of a person convicted of a crime prior to the expiration of that person's term of imprisonment, subject to both the supervision of the correctional authorities during the remainder of the term and a resumption of the imprisonment upon violation of the conditions imposed.

Passport

A document that indicates permission granted by a sovereign to its citizen to travel to foreign countries and return and requests foreign governments to allow that citizen to pass freely and safely. With respect to international law, a passport is a license of safe conduct, issued during a war, that authorizes an individual to leave a warring nation or to remove his or her effects from that nation to another country; it also authorizes a person to travel from country to country without being subject to arrest or detention because of the war. In maritime law, a passport is a document issued to a neutral vessel by its own government during a war that is carried on the voyage as evidence of the nationality of the vessel and as protection against the vessels of the warring nations. This paper is also labeled a *pass*, *sea-pass*, *sea-letter*, or *sea-brief*. It usually contains the captain's or master's name and residence; the name, property, description, tonnage, and destination of the ship; the nature and quantity of the cargo; and the government under which it sails.

Patent

Open; manifest; evident.

Patents

Rights, granted to inventors by the federal government, pursuant to its power under Article I, Section 8, Clause 8, of the U.S. Constitution, that permit them to exclude others from making, using, or selling an invention for a definite, or restricted, period of time.

Paternity

The state or condition of a father; the relationship of a father.

Patients' rights

The legal interests of persons who submit to medical treatment.

Penalty

A punitive measure that the law imposes for the performance of an act that is proscribed, or for the failure to perform a required act.

Pension

A benefit, usually money, paid regularly to retired employees or their survivors by private business and federal, state, and local governments. Employers are not required to establish pension benefits but do so to attract qualified employees.

Per capita

[*Latin, By the heads or polls.*] A term used in the descent and distribution of the estate of one who dies without a will. It means to share and share alike according to the number of individuals.

Per se

[*Latin, In itself.*] Simply as such; in its own nature without reference to its relation.

Peremptory challenge

The right to challenge a juror without assigning, or being required to assign, a reason for the challenge.

Perjury

A crime that occurs when an individual willfully makes a false statement during a judicial proceeding, after he or she has taken an oath to speak the truth.

Perpetrator

A term commonly used by law enforcement officers to designate a person who actually commits a crime.

Personal injury

Any violation of an individual's right, other than his or her rights in property.

Personal property

Everything that is the subject of ownership that does not come under the denomination of real property; any right or interest that an individual has in movable things.

Piracy

The act of violence or depredation on the high seas; also, the theft of intellectual property, especially in electronic media.

Plea

A formal response by the defendant to the affirmative assertions of the plaintiff in a civil case or to the charges of the prosecutor in a criminal case.

Plea bargaining

The process whereby a criminal defendant and prosecutor reach a mutually satisfactory disposition of a criminal case, subject to court approval.

Plurality

The opinion of an appellate court in which more justices join than in any concurring opinion. The excess of votes cast for one candidate over those votes cast for any other candidate.

Polygamy

The offense of having more than one wife or husband at the same time.

Polygraph

An instrument used to measure physiological responses in humans when they are questioned in order to determine if their answers are truthful.

Pornography

The representation in books, magazines, photographs, films, and other media of scenes of sexual behavior that are erotic or lewd and are designed to arouse sexual interest.

Power of attorney

A written document in which one person (the principal) appoints another person to act as an agent on his or her behalf, thus conferring authority on the agent to perform certain acts or functions on behalf of the principal.

Preferred stock

Stock shares that have preferential rights to dividends or to amounts distributable on liquidation, or to both, ahead of common shareholders.

Preliminary injunction

A temporary order made by a court at the request of one party that prevents the other party from pursuing a particular course of conduct until the conclusion of a trial on the merits.

Premarital agreement

A contract made in anticipation of marriage that specifies the rights and obligations of the parties. Such an agreement typically includes terms for property distribution in the event the marriage terminates.

Pretrial conference

A meeting of the parties to an action and their attorneys held before the court prior to the commencement of actual courtroom proceedings.

Price-fixing

The organized setting of what the public will be charged for certain products or services agreed to by competitors in the marketplace in violation of the Sherman Anti-Trust Act (15 U.S.C.A. § 1 et seq.).

Privilege against self-incrimination

The right, under the Fifth Amendment to the U.S. Constitution, not to be a witness against oneself in a criminal proceeding.

Pro bono

Short for *pro bono publico* [Latin, *For the public good*]. The designation given to the free legal work done by an attorney for indigent clients and religious, charitable, and other nonprofit entities.

Pro se

For one's own behalf; in person. Appearing for oneself, as in the case of one who does not retain a lawyer and appears for himself or herself in court.

Probable cause

Apparent facts discovered through logical inquiry that would lead a reasonably intelligent and prudent person to believe that an accused person has committed a crime, thereby warranting his or her prosecution, or that a cause of action has accrued, justifying a civil lawsuit.

Probate

The court process by which a will is proved valid or invalid. The legal process wherein the estate of a decedent is administered.

Probation

A sentence whereby a convict is released from confinement but is still under court supervision; a testing or a trial period. It can be given in lieu of a prison term or can suspend a prison sentence if the convict has consistently demonstrated good behavior. The status of a convicted person who is given some freedom on the condition that for a specified period he or she act in a manner approved by a special officer to whom he or she must report. An initial period of employment during which a new, transferred, or promoted employee must show the ability to perform the required duties.

Probationer

A convict who is released from prison provided he or she maintains good behavior. One who is on probation whereby he or she is given some freedom to reenter society subject to the condition that for a specified period the individual conduct him or herself in a manner approved by a special officer to whom the probationer must report.

Procedural law

The body of law that prescribes formal steps to be taken in enforcing legal rights.

Product liability

The responsibility of a manufacturer or vendor of goods to compensate for injury caused by a defective good that it has provided for sale.

Profanity

Irreverence towards sacred things; particularly, irreverent or blasphemous use of the name of God. Vulgar, irreverent, or coarse language.

Progressive tax

A type of graduated tax that applies higher tax rates as the income of the taxpayer increases.

Property settlement

An agreement entered into by a husband and wife in connection with a divorce that provides for the division of their assets between them.

Proprietary

As a noun, a proprietor or owner; one who has the exclusive title to a thing; one who possesses or holds the title to a thing in his or her own right; one who possesses the dominion or ownership of a thing in his or her own right. As an adjective, belonging to ownership; owned by a particular person; belonging or pertaining to a proprietor; relating to a certain owner or proprietor.

Prosecute

Encyclopedia of Everyday Law - Resources: Glossary

To follow through; to commence and continue an action or judicial proceeding to its ultimate conclusion. To proceed against a defendant by charging that person with a crime and bringing him or her to trial.

Prosecutor

One who prosecutes another for a crime in the name of the government.

Protective order

A court order, direction, decree, or command to protect a person from further harassment, service of process, or discovery.

Provisional

Temporary; not permanent. Tentative, contingent, preliminary.

Public defender

An attorney appointed by a court or employed by the government to represent indigent defendants in criminal actions.

Public domain

Land that is owned by the United States. In copyright law, literary or creative works over which the creator no longer has an exclusive right to restrict, or receive a royalty for, their reproduction or use but which can be freely copied by the public.

Public figure

A description applied in libel and slander actions, as well as in those alleging invasion of privacy, to anyone who has gained prominence in the community as a result of his or her name or exploits, whether willingly or unwillingly.

Public interest

Anything affecting the rights, health, or finances of the public at large.

Public lands

Land that is owned by the United States government.

Public law

A general classification of law concerned with the political and sovereign capacity of a state.

Public policy

A principle that no person or government official can legally perform an act that tends to injure the public.

Public utilities

Businesses that provide the public with necessities, such as water, electricity, natural gas, and telephone and telegraph communication.

Punitive damages

Monetary compensation awarded to an injured party that goes beyond that which is necessary to compensate the individual for losses and that is intended to punish the wrongdoer.

Q

Quid pro quo

[*Latin, What for what or Something for something.*] The mutual consideration that passes between two parties to a contractual agreement, thereby rendering the agreement valid and binding.

R

Ratification

The confirmation or adoption of an act that has already been performed.

Real evidence

Probative matter furnished by items that are actually on view, as opposed to a verbal description of them by a witness.

Reasonable doubt

A standard of proof that must be surpassed to convict an accused in a criminal proceeding.

Redress

Compensation for injuries sustained; recovery or restitution for harm or injury; damages or equitable relief. Access to the courts to gain reparation for a wrong.

Relevancy

The tendency of a fact offered as evidence in a lawsuit to prove or disprove the truth of a point in issue.

Repeal

The annulment or abrogation of a previously existing statute by the enactment of a later law that revokes the former law.

Res

[*Latin, A thing.*] An object, a subject matter, or a status against which legal proceedings have been instituted.

Rescind

To declare a contract void—of no legal force or binding effect—from its inception and thereby restore the parties to the positions they would have occupied had no contract ever been made.

Restitution

In the context of criminal law, state programs under which an offender is required, as a condition of his or her sentence, to repay money or donate services to the victim or society; with respect to maritime law, the restoration of articles lost by jettison, done when the remainder of the cargo has been saved, at the general charge of the owners of the cargo; in the law of torts, or civil wrongs, a measure of damages; in regard to contract law, the restoration of a party injured by a breach of contract to the position that party occupied before she or he entered the contract.

Restraining order

A command of the court issued upon the filing of an application for an injunction, prohibiting the defendant from performing a threatened act until a hearing on the application can be held.

Retainer

A contract between attorney and client specifying the nature of the services to be rendered and the cost of the services.

Roe

A fictitious surname used for an unknown or anonymous person or for a hypothetical person in an illustration.

S

S corporation

A type of corporation that is taxed under subchapter S of the Internal Revenue Code (26 U.S.C.A. § 1 et seq.).

Sales tax

A state or local-level tax on the retail sale of specified property or services. It is a percentage of the cost of such. Generally, the purchaser pays the tax but the seller collects it as an agent for the government. Various taxing jurisdictions allow exemptions for purchases of specified items, including certain foods, services, and manufacturing equipment. If the purchaser and seller are in different states, a use tax usually applies.

Sanction

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To assent, concur, confirm, approve, or ratify. The part of a law that is designed to secure enforcement by imposing a penalty for violation of the law or offering a reward for its observance. A punitive act taken by one nation against another nation that has violated a treaty or international law.

Savings and loan association

A financial institution owned by and operated for the benefit of those using its services. The savings and loan association's primary purpose is making loans to its members, usually for the purchase of real estate or homes.

School desegregation

The attempt to end the practice of separating children of different races into distinct public schools.

Search and seizure

In international law, the right of ships of war, as regulated by treaties, to examine a merchant vessel during war in order to determine whether the ship or its cargo is liable to seizure. A hunt by law enforcement officials for property or communications believed to be evidence of crime, and the act of taking possession of this property.

Search warrant

A court order authorizing the examination of a place for the purpose of discovering contraband, stolen property, or evidence of guilt to be used in the prosecution of a criminal action.

SEC

An abbreviation for the Securities and Exchange Commission.

Securities

Evidence of a corporation's debts or property.

Segregation

The act or process of separating a race, class, or ethnic group from a society's general population.

Self-defense

The protection of one's person or property against some injury attempted by another.

Self-incrimination

Giving testimony in a trial or other legal proceeding that could subject one to criminal prosecution.

Separate but equal

The doctrine first enunciated by the U.S. Supreme Court in *Plessy v. Ferguson*, 163 U.S. 537, 16 S. Ct. 1138, 41 L. Ed. 256 (1896), to the effect that establishing different facilities for blacks and whites was valid under the Equal Protection Clause of the Fourteenth Amendment as long as they were equal.

Settlement

The act of adjusting or determining the dealings or disputes between persons without pursuing the matter through a trial.

Sex discrimination

Discrimination on the basis of gender.

Sex offenses

A class of sexual conduct prohibited by the law.

Sexual abuse

Illegal sex acts performed against a minor by a parent, guardian, relative, or acquaintance.

Sexual harassment

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that tends to create a hostile or offensive work environment.

Social Security Act of 1935

Legislation (42 U.S.C.A. § 301 et seq.) designed to assist in the maintenance of the financial well-being of eligible persons, enacted in 1935 as part of President Franklin D. Roosevelt's New Deal.

Sodomy

Anal or oral intercourse between human beings, or any sexual relations between a human being and an animal, the act of which may be punishable as a criminal offense.

Sole proprietorship

A form of business in which one person owns all the assets of the business, in contrast to a partnership or a corporation.

Solicitation

Urgent request, plea, or entreaty; enticing, asking. The criminal offense of urging someone to commit an unlawful act.

Solicitor general

An officer of the U.S. Department of Justice who represents the U.S. government in cases before the U.S. Supreme Court.

Solvency

The ability of an individual to pay his or her debts as they mature in the normal and ordinary course of business, or the financial condition of owning property of sufficient value to discharge all of one's debts.

Sovereign immunity

The legal protection that prevents a sovereign state or person from being sued without consent.

Stalking

Criminal activity consisting of the repeated following and harassing of another person.

Status offense

A type of crime that is not based upon prohibited action or inaction but rests on the fact that the offender has a certain personal condition or is of a specified character.

Statute

An act of a legislature that declares, proscribes, or commands something; a specific law, expressed in writing.

Statute of limitations

A type of federal or state law that restricts the time within which legal proceedings may be brought.

Statutory

Created, defined, or relating to a statute; required by statute; conforming to a statute.

Stop payment order

Revocation of a check; a notice made by a depositor to his or her bank directing the bank to refuse payment of a specific check drawn by the depositor.

Subcontractor

One who takes a portion of a contract from the principal contractor or from another subcontractor.

Subletting

The leasing of part or all of the property held by a tenant, as opposed to a landlord, during a portion of his or her unexpired balance of the term of occupancy.

Subpoena

[*Latin, Under penalty.*] A formal document that orders a named individual to appear before a duly authorized body at a fixed time to give testimony.

Substantiate

To establish the existence or truth of a particular fact through the use of competent evidence; to verify.

Succession

The transfer of title to property under the law of descent and distribution. The transfer of legal or official powers from an individual who formerly held them to another who undertakes current responsibilities to execute those powers.

Summary judgment

A procedural device used during civil litigation to promptly and expeditiously dispose of a case without a trial. It is used when there is no dispute as to the material facts of the case and a party is entitled to judgment as a matter of law.

Summons

The paper that tells a defendant that he or she is being sued and asserts the power of the court to hear and determine the case. A form of legal process that commands the defendant to appear before the court on a specific day and to answer the complaint made by the plaintiff.

Surrogate motherhood

A relationship in which one woman bears and gives birth to a child for a person or a couple who then adopts or takes legal custody of the child; also called mothering by proxy.

Surtax

An additional charge on an item that is already taxed.

Suspended sentence

A sentence given after the formal conviction of a crime that the convicted person is not required to serve.

T

Taft-Hartley Act

The amendments to the National Labor Relations Act, also known as the Wagner Act of 1935 (29 U.S.C.A. § 151 et seq.), which were enacted to counteract the advantage labor unions had gained under the original legislation by imposing corresponding duties on unions.

Tangible

Possessing a physical form that can be touched or felt.

Tax evasion

The process whereby a person, through commission of fraud, unlawfully pays less tax than the law mandates.

Tax return

The form that the government requires a taxpayer to file with the appropriate official by a designated date to disclose and detail income subject to taxation and eligibility for deductions and exemptions, along with a remittance of the tax due or a claim for a refund of taxes that were overpaid.

Taxable income

Under the federal tax law, gross income reduced by adjustments and allowable deductions. It is the income against which tax rates are applied to compute an individual or entity's tax liability. The essence of taxable income is the accrual of some gain, profit, or benefit to a taxpayer.

Taxation

The process whereby charges are imposed on individuals or property by the legislative branch of the federal government and by many state governments to raise funds for public purposes.

Tenancy

A situation that arises when one individual conveys real property to another individual by way of a lease. The relation of an individual to the land he or she holds that designates the extent of that person's estate in real property.

Terrorism

The unlawful use of force or violence against persons or property in order to coerce or intimidate a government or the civilian population in furtherance of political or social objectives.

Testament

Another name for a will.

Testate

One who dies leaving a valid will, or the description of this status.

Testator

One who makes or has made a will; one who dies leaving a will.

Testify

To provide evidence as a witness, subject to an oath or affirmation, in order to establish a particular

fact or set of facts.

Testimony

Oral evidence offered by a competent witness under oath, which is used to establish some fact or set of facts.

Timeshare

A form of shared property ownership, commonly in vacation or recreation condominium property, in which rights vest in several owners to use property for a specified period each year.

Title insurance

A contractual arrangement entered into to indemnify loss or damage resulting from defects or problems relating to the ownership of real property, or from the enforcement of liens that exist against it.

Title search

The process of examining official county records to determine whether an owner's rights in real property are good.

Tort law

A body of rights, obligations, and remedies that is applied by courts in civil proceedings to provide relief for persons who have suffered harm from the wrongful acts of others. The person who sustains injury or suffers pecuniary damage as the result of tortious conduct is known as the plaintiff, and the person who is responsible for inflicting the injury and incurs liability for the damage is known as the defendant or tortfeasor.

Tortfeasor

A wrongdoer; an individual who commits a wrongful act that injures another and for which the law provides a legal right to seek relief; a defendant in a civil tort action.

Trade dress

A product's physical appearance, including its size, shape, color, design, and texture.

Trade name

Names or designations used by companies to identify themselves and distinguish their businesses from others in the same field.

Trademarks

Distinctive symbols of authenticity through which the products of particular manufacturers or the salable commodities of particular merchants can be distinguished from those of others.

Transfer of assets

The conveyance of something of value from one person, place, or situation to another.

Transfer tax

The charge levied by the government on the sale of shares of stock. A charge imposed by the federal and state governments upon the passing of title to real property or a valuable interest in such property, or on the transfer of a decedent's estate by inheritance, devise, or bequest.

Treason

The betrayal of one's own country by waging war against it or by consciously or purposely acting to aid its enemies.

Trespass

An unlawful intrusion that interferes with one's person or property.

Tribunal

A general term for a court, or the seat of a judge.

Trust company

A corporation formed for the purpose of managing property set aside to be used for the benefit of individuals or organizations.

Trustee

An individual or corporation named by an individual, who sets aside property to be used for the benefit of another person, to manage the property as provided by the terms of the document that

created the arrangement.

U

U.S. Code

A multivolume publication of the text of statutes enacted by Congress.

Unemployment compensation

Insurance benefits paid by the state or federal government to individuals who are involuntarily out of work in order to provide them with necessities, such as food, clothing, and shelter.

Unfair competition

Any fraudulent, deceptive, or dishonest trade practice that is prohibited by statute, regulation, or the common law.

Unfair labor practice

Conduct prohibited by federal law regulating relations between employers, employees, and labor organizations.

Uniform acts

Laws that are designed to be adopted generally by all the states so that the law in one jurisdiction is the same as in another jurisdiction.

Uniform commercial code

A general and inclusive group of laws adopted, at least partially, by all the states to further uniformity and fair dealing in business and commercial transactions.

Unilateral contract

A contract in which only one party makes an express promise, or undertakes a performance without first securing a reciprocal agreement from the other party.

Unlawful detainer

The act of retaining possession of property without legal right.

USC

An abbreviation for U.S. Code.

Use tax

A charge imposed on the use or possession of personal property.

Usury

The crime of charging higher interest on a loan than the law permits.

V

Vagrancy

The condition of an individual who is idle, has no visible means of support, and travels from place to place without working.

Vandalism

The intentional and malicious destruction of or damage to the property of another.

Visa

An official endorsement on a passport or other document required to secure an alien's admission to a country.

Voir dire

[*Old French, To speak the truth.*] The preliminary examination of prospective jurors to determine their qualifications and suitability to serve on a jury, in order to ensure the selection of fair and impartial jury.

Voting Rights Act of 1965

Encyclopedia of Everyday Law - Resources: Glossary

An enactment by Congress in 1965 (42 U.S.C.A. § 1973 et seq.) that prohibits the states and their political subdivisions from imposing voting qualifications or prerequisites to voting, or standards, practices, or procedures that deny or curtail the right of a U.S. citizen to vote because of race, color, or membership in a language minority group.

Voucher

A receipt or release which provides evidence of payment or other discharge of a debt, often for purposes of reimbursement, or attests to the accuracy of the accounts.

W

Wage assignment

The voluntary transfer in advance of a debtor's pay, generally in connection with a particular debt or judgment.

Waiver

The voluntary surrender of a known right; conduct supporting an inference that a particular right has been relinquished.

Warrant

A written order issued by a judicial officer or other authorized person commanding a law enforcement officer to perform some act incident to the administration of justice.

Warranty

An assurance, promise, or guaranty by one party that a particular statement of fact is true and may be relied upon by the other party.

Warranty deed

An instrument that transfers real property from one person to another and in which the grantor promises that title is good and clear of any claims.

Weight of evidence

Measure of credible proof on one side of a dispute as compared with the credible proof on the other, particularly the probative evidence considered by a judge or jury during a trial.

Whistleblowing

The disclosure by a person, usually an employee, in a government agency or private enterprise; to the public or to those in authority, of mismanagement, corruption, illegality, or some other wrongdoing.

Wiretapping

A form of electronic eavesdropping accomplished by seizing or overhearing communications by means of a concealed recording or listening device connected to the transmission line.

Workers' compensation

A system whereby an employer must pay, or provide insurance to pay, the lost wages and medical expenses of an employee who is injured on the job.

Writ

An order issued by a court requiring that something be done or giving authority to do a specified act.

Wrongful death

The taking of the life of an individual resulting from the willful or negligent act of another person or persons.

Wrongful discharge

An at-will employee's cause of action against his former employer, alleging that his dischargee was in violation of state or federal antidiscrimination statutes, public policy, an implied contract or an implied covenant of good faith and fair dealing.

Z

Zoning

The separation or division of a municipality into districts, the regulation of buildings and structures in such districts in accordance with their construction and the nature and extent of their use, and the dedication of such districts to particular uses designed to serve the general welfare.

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