

**W.****W-2 FORM**

W-2 form.Tax. A statement of earnings and taxes withheld (including federal, state, and local income taxes and FICA tax) during a given tax year. • The W-2 is prepared by the employer, provided to each employee, and filed with the Internal Revenue Service. Cf. W-4 FORM. [Cases: Internal Revenue 4849. C.J.S. Internal Revenue §§ 740–741.]

**W-4 FORM**

W-4 form.Tax. A form that indicates the number of personal exemptions an employee is claiming and that is used by the employer in determining the amount of income to be withheld from the employee's paycheck for federal-income tax purposes. — Also termed Employee's Withholding Allowance Certificate. Cf. W-2 FORM. [Cases: Internal Revenue 4849. C.J.S. Internal Revenue §§ 740–741.]

**WACREOUR**

wacreour (wah-kroor), n.[Law French] Hist. A vagrant.

**WADE<TT> HEARING**

Wade hearing.Criminal law. A pretrial hearing in which the defendant contests the validity of his or her out-of-court identification. • If the court finds that the identification was tainted by unconstitutional methods, the prosecution cannot use the identification and must link the defendant to the crime by other means. *United States v. Wade*, 388 U.S. 218, 87 S.Ct. 1926 (1967). [Cases: Criminal Law 339.11(2). C.J.S. Criminal Law § 814.]

**WADIA**

wadia (way-dee-<<schwa>>), n.[Law Latin] Hist. Pledges.

**WADSET**

wadset,n. Scots law. 1. A mortgage. — Also termed (in Roman law) fiducia. 2. A pledge or pawn.

wadset,vb. Scots law. 1. To mortgage. 2. To pledge.

**WAFER SEAL**

wafer seal.See SEAL.

**WAFTER**

wafter (waf-t<<schwa>>r), n.[Middle English “convoyer”] Hist. An English naval officer appointed under Edward IV to protect fishermen, esp. on the coast of Norfolk and Suffolk. — Also spelled waftor.

**WAGA**

waga (way-g<<schwa>>), n.[Law Latin] Hist. A measure of weight; a measure of goods.

**WAGE**

wage,n. (usu. pl.) Payment for labor or services, usu. based on time worked or quantity produced; specif., com-pensation of an employee based on time worked or output of production. • Wages include every form of remuneration payable for a given period to an individual for personal services, including salaries, commissions, vacation pay, bonuses, and the reasonable value of board, lodging, payments in kind, tips, and any similar advantage received from the employer. An employer usu. must withhold income taxes from wages. Cf. SALARY.

covered wages.Wages on which a person is required to pay social-security taxes. [Cases: Internal Revenue 4374. C.J.S. Social Security and Public Welfare §§ 192, 194.]

current wages.Wages for the current period; wages that are not past due.

front wages.Prospective compensation paid to a victim of job discrimination until the denied position becomes available. [Cases: Civil Rights 1471, 1571, 1583(2). C.J.S. Civil Rights §§ 150, 172–173.]

minimum wage.The lowest permissible hourly rate of compensation for labor, as established by federal statute and required of employers engaged in interstate commerce. 29 USCA § 206. [Cases: Labor Relations 1268. C.J.S. Labor Relations §§ 1141–1142.]

noncovered wages.Wages on which a person is not required to pay social-security taxes. [Cases: Internal Revenue 4374. C.J.S. Social Security and Public Welfare §§ 192, 194.]

real wages.Wages representing the true purchasing power of the dollar, derived by dividing a price index into money wages.

wage,vb.1. To engage in (a war, etc.).2.Archaic. To give security for (a performance, etc.). Cf. GAGE.

**WAGE AND HOUR DIVISION**

Wage and Hour Division.The division of the Employment Standards Administration in the U.S. Department of Labor responsible for enforcing the Fair Labor Standards Act, the Family and Medical Leave Act, the Employee Polygraph Protection Act, and other workplace-related statutes and regulations. — Abbr. WHD. See EM-PLOYMENT STANDARDS ADMINISTRATION.

**WAGE-AND-HOUR LAW**

wage-and-hour law.A law (such as the federal Fair Labor Standards Act) governing minimum wages and maximum working hours for employees. [Cases: Labor Relations 1081–1085. C.J.S. Labor Relations §§ 1017–1018.]

**WAGE AND PRICE CONTROLS**

wage and price controls.A system of government-mandated maximum prices that can be

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charged for different goods and services or paid to various workers in different jobs.

**WAGE-AND-PRICE FREEZE**

wage-and-price freeze. See FREEZE.

**WAGE ASSIGNMENT**

wage assignment. 1. See attachment of wages under ATTACHMENT(1). 2. INCOME-WITHHOLDING ORDER R.

**WAGE-ASSIGNMENT ORDER**

wage-assignment order. See INCOME-WITHHOLDING ORDER.

**WAGE-EARNER'S PLAN**

wage-earner's plan. See CHAPTER 13.

**WAGER**

wager, n. 1. Money or other consideration risked on an uncertain event; a bet or gamble. 2. A promise to pay money or other consideration on the occurrence of an uncertain event. 3. See wagering contract under CONTRACT. [Cases: Gaming 1.] — wager, vb. — wagerer, n.

**WAGERING CONTRACT**

wagering contract. See CONTRACT.

**WAGER OF BATTLE**

wager of battle. See TRIAL BY COMBAT.

**WAGER OF LAW**

wager of law. Hist. A method of proof in which a person defends against a claim by swearing that the claim is groundless, and by enlisting others (compurgators) to swear to the defendant's credibility. — Also termed gager del ley (gay-j<<schwa>>r del lay); vadiatio legis (vad-ee-ay-shee-oh lee-jis). See COMPURGATION.

**WAGER POLICY**

wager policy. See INSURANCE POLICY.

**WAGES**

wages. See WAGE.

**WAGE-WITHHOLDING**

wage-withholding. See attachment of wages under ATTACHMENT(1).

**WAGE-WITHHOLDING ORDER**

wage-withholding order. See INCOME-WITHHOLDING ORDER.

**WAGNER ACT**

Wagner Act. See NATIONAL LABOR RELATIONS ACT.

**WAGONAGE**

wagonage (wag-*<<schwa>>-nij*). 1. Transportation by a wagon. 2. The fee for carriage by wagon. 3. A group of wagons.

**WAIF**

waif, n. 1. An abandoned article whose owner is unknown, esp. something stolen and thrown away by the thief in flight, usu. through fear of apprehension. • At common law, if a waif, whether stolen or merely abandoned, was seized before the owner reclaimed it, the title vested in the Crown. The owner was thus punished for leaving the property or for failing to pursue the thief and attempting to recover the property. Today, however, the general rule is that a waif passes to the state in trust for the true owner, who may regain it by proving ownership.

“Waifs, bona waviata, are goods stolen, and waived or thrown away by the thief in his flight, for fear of being apprehended. These are given to the king by the law, as a punishment upon the owner, for not himself pursuing the felon, and taking away his goods from him. And therefore if the party robbed do his diligence immediately to follow and apprehend the thief (which is called making fresh suit) or do convict him afterwards, or procure evi-dence to convict him, he shall have his goods again.” 1 William Blackstone, *Commentaries on the Laws of England* 286–87 (1765).

2. Hist. A homeless person, esp. a woman or child; a social outcast. See WAIVERY. “[In the thirteenth century] a woman, though she cannot be outlawed, can be ‘waived,’ declared a ‘waif,’ and ‘waiver’ seems to have all the effects of outlawry.” 1 Frederick Pollock & Frederic William Maitland, *History of English Law Before the Time of Edward I* 482 (2d ed. 1898).

**WAINABLE**

wainable (way-n*<<schwa>>-b<<schwa>>l*), adj. Archaic. (Of land) plowable; tillable.

**WAINAGE**

wainage (way-nij), n. Hist. 1. The plow, team, and other implements used by a person (esp. a villein) to cultivate the soil; instruments of husbandry. 2. Cultivated land or the profits from it. — Also termed wainagium; waynagium (way-nay-jee-*<<schwa>>m*); (in sense 2) gainage.

**WAINBOTE**

wainbote. See BOTE(1).

**WAIT-AND-SEE PRINCIPLE**

wait-and-see principle. A modification to the rule against perpetuities, under which a court may determine the validity of a contingent future interest based on whether it actually vests within the perpetuities period, rather than on whether it possibly could have vested outside the period. —

Also termed second-look doctrine. [Cases: Per-petuities 4. C.J.S. Perpetuities §§ 2, 12.]

#### WAITING CLERK

waiting clerk.Hist. An officer who waits in attendance on the court of chancery. • The office of the waiting clerk was abolished in 1842 by the Court of Chancery Act. St. 5 & 6 Vict. ch. 103.

#### WAITING PERIOD

waiting period.A period that must expire before some legal right or remedy can be enjoyed or enforced. • For example, many states have waiting periods for the issuance of marriage licenses or the purchase of handguns.

#### WAIVE

waive (wayv), n. Archaic. A woman who has by her conduct deprived herself of the protection of the law; a female outlaw. • The term “outlaw” usu. referred only to a male. See OUTLAW(1), (2).

waive,vb.1. To abandon, renounce, or surrender (a claim, privilege, right, etc.); to give up (a right or claim) voluntarily. • Ordinarily, to waive a right one must do it knowingly — with knowledge of the relevant facts. [Cases: Estoppel 52.10. C.J.S. Estoppel §§ 67–68, 70–72, 75–76, 79, 159–160.] 2. To refrain from insisting on (a strict rule, formality, etc.); to forgo. 3.Hist. To declare someone a waif. See WAIF(2).

#### WAIVER

waiver (way-v<<schwa>>r), n.1. The voluntary relinquishment or abandonment — express or implied — of a legal right or advantage; FORFEITURE <waiver of notice>. • The party alleged to have waived a right must have had both knowledge of the existing right and the intention of forgoing it. Cf. ESTOPPEL. [Cases: Estoppel 52.10. C.J.S. Estoppel §§ 67–68, 70–72, 75–76, 79, 159–160.]

“The term waiver is one of those words of indefinite connotation in which our legal literature abounds; like a cloak, it covers a multitude of sins.” William R. Anson, *Principles of the Law of Contract* 419 (Arthur L. Corbin ed., 3d Am. ed. 1919).

“ ‘Waiver’ is often inexactly defined as ‘the voluntary relinquishment of a known right.’ When the waiver is reinforced by reliance, enforcement is often said to rest on ‘estoppel.’ ... Since the more common definition of estoppel is limited to reliance on a misrepresentation of an existing fact, reliance on a waiver or promise as to the future is sometimes said to create a ‘promissory estoppel.’ The common definition of waiver may lead to the incorrect inference that the promisor must know his legal rights and must intend the legal effect of the promise. But ... it is sufficient if he has reason to know the essential facts.” Restatement (Second) of Contracts § 84 cmt. b (1979).

“Waiver is often asserted as the justification for a decision when it is not appropriate to the circumstances.” Robert E. Keeton & Alan I. Widiss, *Insurance Law* § 6.8, at 719 (1998).

“Although it has often been said that a waiver is ‘the intentional relinquishment of a known

right,' this is a mis-leading definition. What is involved is not the relinquishment of a right and the termination of the reciprocal duty but the excuse of the nonoccurrence of or a delay in the occurrence of a condition of a duty." E. Allan Farnsworth, *Contracts* § 8.5, at 561 (3d ed. 1999).

**express waiver.**A voluntary and intentional waiver. [Cases: Estoppel 52.10(2). C.J.S. Estoppel §§ 74–75, 84, 87.]

**implied waiver.**A waiver evidenced by a party's decisive, unequivocal conduct reasonably inferring the intent to waive. [Cases: Estoppel 52.10(3). C.J.S. Estoppel §§ 69, 71, 76, 79.]

"An implied waiver may arise where a person has pursued such a course of conduct as to evidence an intention to waive a right, or where his conduct is inconsistent with any other intention than to waive it. Waiver may be inferred from conduct or acts putting one off his guard and leading him to believe that a right has been waived. Mere silence, however, is no waiver unless there is an obligation to speak." 28 Am. Jur. 2d Estoppel and Waiver § 160, at 845–46 (1966).

**prospective waiver.**A waiver of something that has not yet occurred, such as a contractual waiver of future claims for discrimination upon settlement of a lawsuit.

**subject-matter waiver.**A waiver that may result when a party voluntarily discloses a communication or privileged material about a particular topic to a third party. • A party's voluntary disclosure may lead a court to find an implied waiver that extends to all other communications relating to the same subject matter.

**waiver of notice.**Parliamentary law. The waiver that occurs when a defective notice for a meeting is issued but every member attends and participates without objecting to the defect.

2. The instrument by which a person relinquishes or abandons a legal right or advantage <the plaintiff must sign a waiver when the funds are delivered>.

**jury waiver.**A form signed by a criminal defendant who relinquishes the right to have the trial conducted before a jury.

**lien waiver.**A written and signed waiver of a subcontractor's mechanic's lien rights, usu. submitted to enable the owner or general contractor to receive a draw on a construction loan. [Cases: Mechanics' Liens 208. C.J.S. Mechanics' Liens §§ 252–253.]

#### WAIVER BY ELECTION OF REMEDIES

**waiver by election of remedies.**A defense arising when a plaintiff has sought two inconsistent remedies and by a decisive act chooses one of them, thereby waiving the other. [Cases: Election of Remedies 1. C.J.S. Election of Remedies §§ 2–3.]

#### WAIVER HEARING

**waiver hearing.**See transfer hearing under HEARING.

#### WAIVER OF CLAIMS AND DEFENSES

waiver of claims and defenses. 1. The intentional relinquishment by a maker, drawer, or other obligor under a contract of the right to assert against the assignee any claims or defenses the obligor has against the assignor. [Cases: Assignments 103; Bills and Notes 314; Secured Transactions 185. C.J.S. Assignments § 100; Bills and Notes; Letters of Credit §§ 166–168; Secured Transactions § 139.] 2. The contractual clause providing for such a waiver.

#### WAIVER OF COUNSEL

waiver of counsel. A criminal defendant's intentional relinquishment of the right to legal representation. • To be valid, a waiver of counsel must be made voluntarily, knowingly, and intelligently.

#### WAIVER OF DEFENSES

waiver of defenses. Real estate. A document by which a mortgagor acknowledges that the mortgage is good and valid for the full amount of the mortgage note. • This document ensures that the mortgagor has no defenses to the mortgage. — Also termed estoppel certificate; no-setoff certificate; declaration of no defenses. [Cases: Mortgages 415. C.J.S. Mortgages §§ 512–513, 531–534, 700.]

#### WAIVER OF EXEMPTION

waiver of exemption. 1. A debtor's voluntary relinquishment of the right to an exemption from a creditor's levy or sale of any part of the debtor's personal property by judicial process. [Cases: Exemptions 89–99; Homestead 169–176.] 2. The contractual clause expressly providing for such a waiver. [Cases: Exemptions 92; Homestead 170.]

#### WAIVER OF IMMUNITY

waiver of immunity. The act of giving up the right against self-incrimination and proceeding to testify. See IMMUNITY(3). [Cases: Witnesses 305. C.J.S. Witnesses §§ 552–554.]

#### WAIVER OF NOTICE

waiver of notice. See WAIVER(1).

#### WAIVER-OF-PREMIUM CLAUSE

waiver-of-premium clause. Insurance. A provision for a waiver of premium payments after the insured has been disabled for a specified length of time, such as six months. [Cases: Insurance 2035. C.J.S. Insurance §§ 452–453, 556, 732–733, 773, 817, 832–833.]

#### WAIVER OF PROTEST

waiver of protest. A relinquishment by a party to a negotiable instrument of the formality of protest in case of dishonor. See PROTEST(2). [Cases: Bills and Notes 422. C.J.S. Bills and Notes; Letters of Credit §§ 213–215, 219–228, 230.]

#### WAIVER OF SERVICE

waiver of service. A defendant's voluntary submission to the jurisdiction made by signing an

acknowledgment of receipt of the petition and stating that he or she waives all further service.

#### WAIVER OF TORT

waiver of tort. The election to sue in quasi-contract to recover the defendant's unjust benefit, instead of suing in tort to recover damages. See implied-in-law contract under CONTRACT. [Cases: Action 28. C.J.S. Actions §§ 90, 108–123.]

“A person upon whom a tort has been committed and who brings an action for the benefits received by the tortfeasor is sometimes said to ‘waive the tort.’” Restatement of Restitution § 525 (1937).

“ ‘Waiver of tort’ is a misnomer. A party only waives a tort in the sense that he elects to sue in quasi-contract to recover the defendant's unjust benefit rather than to sue in tort to recover damages; he has a choice of alternative remedies. But the tort is not extinguished. Indeed it is said that it is a sine qua non of both remedies that he should establish that a tort has been committed.” Lord Goff of Chieveley & Gareth Jones, *The Law of Restitution* 605 (3d ed. 1986).

#### WAIVERY

waivery. Hist. The act of putting a woman outside the protection of the law. • At common law, a woman could not be “outlawed” because she was not considered “in law” — that is, she could not undertake legal proceedings on her own. By Bracton's day, the effect of outlawing a woman was achieved by “waiving” her — the act being called waivery.

#### WAKENING

wakening. Scots law. The revival of an action in which no steps had taken for at least a year and a day.

#### WALK

walk, vb. Slang. 1. To be acquitted <though charged with three thefts, Robinson walked each time>. 2. To escape any type of real punishment <despite the seriousness of the crime, Selvidge paid only \$750: he walked>.

#### WALKER

walker, n. Hist. A forester who inspects an assigned area of land.

#### WALKER PROCESS CLAIM

Walker Process claim. Patents. A counterclaim in an infringement suit, seeking a declaratory judgment that the patent is invalid because its owner defrauded the Patent Office. • The claim is based on antitrust law, alleging that the patentee wrongfully tried to monopolize a market. *Walker Process Equip., Inc. v. Food Mach. & Chem.*, 382 U.S. 172, 86 S.Ct. 347 (1965). — Also termed Walker Process defense.

#### WALKOUT

walkout. 1. STRIKE(1). 2. The act of leaving a work assignment, meeting, or other event as a



show of protest. [Cases: Labor Relations 290.C.J.S. Labor Relations §§ 273–274, 277–278.]

## WALL

wall. An erection of stone, brick, or other material raised to varying heights, esp. inside or surrounding a building, for privacy, security, or enclosure.

ancient wall. A party wall that has stood for at least 20 years, thus giving each party an easement right to refuse to allow the other party to remove or substantially change the wall.

party wall. A wall that divides two adjoining, separately owned properties and that is shared by the two property owners as tenants in common. — Also termed common wall. [Cases: Party Walls 1–10. C.J.S. Party Walls §§ 1–59.]

“There appears to be no precise legal definition of the term ‘party wall.’ Four possible meanings are as follows: (a) Tenancy in common: the two adjoining owners are tenants in common of the wall. (b) Divided: the wall is divided longitudinally into two strips, one belonging to each of the neighbouring owners. (c) Divided with easements: the wall is divided as in (b), but each half is subject to an easement of support in favour of the owner of the other half. (d) Ownership subject to easement: the wall belongs entirely to one of the adjoining owners, but is subject to an easement or right in the other to have it maintained as a dividing wall.” Robert E. Megarry & M.P. Thompson, *A Manual of the Law of Real Property* 303–04 (6th ed. 1993).

## WALLIA

wallia (wahl-ee-*<<schwa>>*), n. [Law Latin] Hist. A wall (such as a mound or bank) erected in marshy areas for protection against the sea; a seawall.

## WALSH ACT

Walsh Act. A statute, originally enacted in 1926, giving federal courts the power to subpoena and compel the return, testimony, and (if requested) production of documents or other items of U.S. citizens or residents who are abroad. • The subpoena is available for criminal proceedings, including grand-jury proceedings. 28 USCA § 1783.

## WALSH–HEALEY ACT

Walsh–Healey Act. A federal law, enacted in 1936, stipulating that government contractors must: (1) pay their workers no less than the prevailing minimum wage; (2) observe the eight-hour day and 40-hour workweek (with time-and-a-half for work exceeding those hours); (3) employ no convict labor and no females under 18 or males under 16 years of age; and (4) maintain sanitary working conditions. 41 USCA §§ 35 et seq. — Also termed Public Contracts Act.

## WAMPUM

wampum (wom-p*<<schwa>>*m), n. Hist. Indian money consisting of shells, beads, or animal pelts. • In 1637, it became the first medium of exchange for the New England colonies by order of the General Court of Massachusetts, because England had not provided the colonies with a standard of exchange. The Court ordered that “wampampege should passe at 6 a penny for any

sum under 12d.” Wampum was used as the medium of exchange, esp. for small transactions, until 1652, when the General Court ordered the first metallic currency.

#### WANDS<TT> TEST

Wands test.Patents. A judicial test of “undue experimentation” for determining whether a patent application's specification teaches one skilled in the art how to make and work the claimed invention. *In re Wands*, 858 F.2d 731 (Fed. Cir. 1988). • The test takes account of eight factors: (1) how much experimentation would be needed, (2) how much guidance is given, (3) whether there is a working example, (4) the nature of the invention, (5) the state of the prior art, (6) the level of skill of those in the art, (7) how predictable or unpredictable the art is, and (8) the breadth of the claims. The factors (often called Wands factors) are illustrative rather than mandatory. See **UNDUE EXPERIMENTATION**. [Cases: Patents 99. C.J.S. Patents § 139.]

#### WANLASS

wanlass (wahn-l<<schwa>>s).Hist. An ancient form of tenure requiring the tenant to drive deer to a stand so that the lord can take a shot. — Also spelled wanlace.

#### WANTAGE

wantage (wahnt-ij), n. A deficiency of something; specif., a vessel's deficiency of not being full, due to leakage.

#### WANTED PERSON

wanted person.A person sought by the police because the person has escaped from custody or an arrest warrant has been issued for the person's arrest.

#### WANT OF AMICABLE DEMAND

want of amicable demand.Louisiana law. A defensive pleading by a defendant who seeks to avoid, delay, or defeat the plaintiff's petition. • A defendant may (1) refuse to participate in the suit (a declinatory exception), (2) seek to delay the litigation in the suit (a dilatory exception), or (3) seek to dismiss or defeat the suit (a peremptory exception). See **declinatory exception**, **dilatory exception**, **peremptory exception** under **EXCEPTION**(1).

#### WANT OF CONSIDERATION

want of consideration.The lack of consideration for a contract. See **CONSIDERATION**(1). Cf. **FAILURE OF CONSIDERATION**. [Cases: Contracts 54(1), 84; Sales 21. C.J.S. Contracts §§ 87, 134; Sales § 27.]

#### WANT OF JURISDICTION

want of jurisdiction.A court's lack of power to act in a particular way or to give certain kinds of relief. • A court may have no power to act at all, may lack authority over a person or the subject matter of a lawsuit, or may have no power to act until the prerequisites for its jurisdiction have been satisfied. — Also termed **lack of jurisdiction**. See **JURISDICTION**. [Cases: Courts 39, 40; Federal Courts 30. C.J.S. Courts §§ 3, 87–92.]

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**WANT OF PROSECUTION**

want of prosecution.Failure of a litigant to pursue the case <dismissal for want of prosecution>. — Abbr. w.o.p.; w.p. — Also termed lack of prosecution; no progress. [Cases: Federal Civil Procedure 1758; Pretrial Procedure 581. C.J.S. Dismissal and Nonsuit §§ 51, 67, 69, 73.]

**WANT OF REPAIR**

want of repair.A defective condition, such as a condition on a highway making it unsafe for ordinary travel. [Cases: Automobiles 252; Municipal Corporations 757(1). C.J.S. Motor Vehicles §§ 431–433, 435, 440–441, 466, 486; Municipal Corporations § 699.]

**WANTON**

wanton (wahn-t<<schwa>>n), adj. Unreasonably or maliciously risking harm while being utterly indifferent to the consequences. • In criminal law, wanton usu. connotes malice (in the criminal-law sense), while reckless does not. Cf. RECKLESS; WILLFUL. [Cases: Criminal Law 23; Negligence 275.C.J.S. Criminal Law § 38; Negligence §§ 98–103, 106–113, 913–914.]

“Wanton differs from reckless both as to the actual state of mind and as to the degree of culpability. One who is acting recklessly is fully aware of the unreasonable risk he is creating, but may be trying and hoping to avoid any harm. One acting wantonly may be creating no greater risk of harm, but he is not trying to avoid it and is indifferent to whether harm results or not. Wanton conduct has properly been characterized as ‘vicious’ and rates extreme in the degree of culpability. The two are not mutually exclusive. Wanton conduct is reckless plus, so to speak.” Rollin M. Perkins & Ronald N. Boyce, *Criminal Law* 879–80 (3d ed. 1982).

**WANTON AND RECKLESS MISCONDUCT**

wanton and reckless misconduct.See wanton misconduct under MISCONDUCT.

**WANTON MISCONDUCT**

wanton misconduct.See MISCONDUCT.

**WANTON NEGLIGENCE**

wanton negligence.See gross negligence under NEGLIGENCE.

**WANTONNESS**

wantonness,n. Conduct indicating that the actor is aware of the risks but indifferent to the results. • Wantonness usu. suggests a greater degree of culpability than recklessness, and it often connotes malice in criminal-law contexts. Cf. RECKLESSNESS. [Cases: Damages 91(1); Negligence 275; Sentencing and Punishment 1438. C.J.S. Criminal Law §§ 1593–1594, 1596; Damages §§ 202–203; Negligence §§ 98–103, 106–113.] — wanton,adj.

**WAPENTAKE**

wapentake (wəhp-*<<schwa>>*n-tayk or wap-), n.[fr. Saxon waepen “weapons” + tac “touch”] Hist. 1. In some English counties, a division corresponding to the hundred or ward in other counties. See HUNDRED. 2. The court within such a division. 3. A bailiff who works in such a court.

## WAR

war. 1. Hostile conflict by means of armed forces, carried on between nations, states, or rulers, or sometimes between parties within the same nation or state; a period of such conflict <the Gulf War>. • A state of war may also exist without armed conflict; for example, the treaty formally ending the World War II state of war between the United States and Japan was signed seven years after the fighting ended in 1945. [Cases: War and National Emergency 1. C.J.S. War and National Defense §§ 1, 5.]

civil war. An internal armed conflict between people of the same nation; esp. (usu. cap.), the war from 1861 to 1865, resulting from the Confederate states' attempted secession from the Union.

imperfect war. A war limited in terms of places, persons, and things.

mixed war. A war between a nation and private individuals.

perfect war. A war involving an entire nation against another.

private war. A war between private persons.

public war. A war between two nations under authority of their respective governments.

solemn war. A war formally declared — esp. by public declaration — by one country against another.

2. A dispute or competition between adversaries <fare wars are common in the airline industry>. 3. A struggle to solve a pervasive problem <America's war against drugs>.

## WARANTIZARE

warantizare. See WARRANTIZARE.

## WAR CLAUSE

War Clause. U.S. Const. art. I, § 8, cl. 11–14, giving Congress the power to declare war. See WAR POWER. [Cases: War and National Emergency 2. C.J.S. War and National Defense § 2.]

## WAR CONTRIBUTION

war contribution. Int'l law. An extraordinary payment imposed by an occupying power on the population of an occupied territory during wartime. — Often shortened to contribution.

## WAR CRIME

war crime. Conduct that violates international laws governing the conduct of international armed conflicts. • Examples of war crimes are the killing of hostages, abuse of civilians in

occupied territories, abuse of prisoners of war, and devastation that is not justified by military necessity. [Cases: War and National Emergency 11. C.J.S. War and National Defense §§ 7–8.]

## WARD

ward. 1. A person, usu. a minor, who is under a guardian's charge or protection. See GUARDIAN(1). [Cases: Guardian and Ward 1, 9.5.]

permanent ward. A ward who has been assigned a permanent guardian, the rights of the natural parents having been terminated by a juvenile court. [Cases: Guardian and Ward 9.5; Infants 155.]

temporary ward. A minor who is under the supervision of a juvenile court but whose parents' parental rights have not been terminated. [Cases: Infants 154.1.]

ward-in-chancery. Hist. An infant under the superintendence of the chancellor.

ward of admiralty. A seaman — so called because of the legal view that a seaman, in contractual matters, should be treated as a beneficiary and the other contracting party as a fiduciary because of the perceived inequity of their bargaining positions. [Cases: Seamen 1. C.J.S. Seamen §§ 6, 216–219.]

ward of the state. A person who is housed by, and receives protection and necessities from, the government. — Also termed state's ward.

2. A territorial division in a city, usu. defined for purposes of city government. [Cases: Municipal Corporations 40.] 3. The act of guarding or protecting something or someone. 4. Archaic. One who guards. 5. CASTLE-GUARD. — Formerly also termed warda.

## WARDA

warda (wor-d<<schwa>>), n. [Law Latin] Hist. Wardship; guardianship.

## WARDAGE

wardage. See WARDPENNY.

## WARDEN

warden. 1. A person in charge of something <game warden> <port warden>; esp., the official in charge of a prison, jail, or park <prison warden> <game warden>. [Cases: Prisons 6–12. C.J.S. Prisons and Rights of Prisoners §§ 6, 14–20, 25, 50–53, 55, 59, 124–129.] 2. SERGEANT-AT-ARMS(4).

## WARDEN OF THE CINQUE PORTS

warden of the cinque ports (singk ports). Hist. A magistrate with jurisdiction over the five cinque ports. • This office was created in imitation of the Roman policy of strengthening coasts against enemies. The warden, formally called the Lord Warden, presided over the Court of the Lord Warden of the Cinque Ports, which was created in the 14th century and, over time, variously exercised civil, equity, and admiralty jurisdiction. — Formerly termed guardian of the cinque ports.

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See CINQUE PORTS.

**WARD HOLDING**

ward holding.Scots law. The feudal tenure known in England as knight service. See KNIGHT SERVICE.

**WARD-HORN**

ward-horn.Hist. The duty of keeping watch and ward with a horn to blow in the event of a surprise. See WATCH AND WARD.

**WARD-IN-CHANCERY**

ward-in-chancery. See WARD.

**WARDITE**

wardite.Hist. A fine that a tenant was required to pay upon failing to fulfill the duty of castle-guard. See CAS-TLE-GUARD.

**WARDMOTE**

wardmote (word-moht).Hist. 1. A court maintained in every London ward. — Also termed wardmote court; inquest. 2. A meeting of a ward.

**WARD OF ADMIRALTY**

ward of admiralty.See WARD.

**WARD OF THE STATE**

ward of the state.See WARD.

**WARDPENNY**

wardpenny,n. Hist. 1.Money paid in lieu of military service. 2. Money paid to the sheriff or castellains in exchange for watching and warding a castle. — Also termed wardage; warth.

**WARDSHIP**

wardship. 1. Guardianship of a person, usu. a minor. [Cases: Guardian and Ward 1.] 2. The condition of being a ward. 3.Hist. The right of the feudal lord to guardianship of a deceased tenant's minor heir until the heir reached the age of majority. — Also termed (in senses 1 & 3) guardage.

**WARDSHIP IN CHIVALRY**

wardship in chivalry.Wardship as incident to the tenure of knight-service.

**WARDSHIP IN COPYHOLDS**

wardship in copyholds.Wardship by which the lord is guardian of an infant tenant by special custom.

**WARDSTAFF**

wardstaff, n. Hist. A staff carried by an authority; esp., a constable's or watchman's staff.

**WARDWIT**

wardwit, n. Hist. 1. An immunity or exemption from the duty of warding or contributing to warding. 2. A fine for failing to watch and ward. — Also termed warwit; wardwite.

**WARECTARE**

warectare (wor-<<schwa>>k-tair-ee), vb. [Law Latin “to let lie fallow”] Hist. To plow land in the spring and then let it lie fallow for a better wheat crop the next year.

**WAREHOUSE**

warehouse. A building used to store goods and other items.

bonded warehouse. A special type of private warehouse used to store products subject to customs duties. See **WAREHOUSE SYSTEM**.

**WAREHOUSE BOOK**

warehouse book. A book used by merchants to account for quantities of goods received, shipped, and in stock.

**WAREHOUSEMAN**

warehouseman. See **WAREHOUSER**.

**WAREHOUSEMAN'S LIEN**

warehouseman's lien. See warehouse's lien under **LIEN**.

**WAREHOUSER**

warehouser. One who, as a business, keeps or stores the goods of another for a fee. • The transaction in which a warehouser engages is a bailment for the benefit of both parties, and the bailee is liable for ordinary negligence. — Also termed warehouseman. See **BAILEE**. [Cases: Warehousemen 3.C.J.S. Warehousemen and Safe De-positaries §§ 1–2.]

**WAREHOUSE RECEIPT**

warehouse receipt. A document evidencing title to goods stored with someone else; esp., a receipt issued by a person engaged in the business of storing goods for a fee. • A warehouse receipt, which is considered a document of title, may be a negotiable instrument and is often used for financing with inventory as security. See **BAILMENT**. [Cases: Warehousemen 11.C.J.S. Warehousemen and Safe Depositories §§ 23, 26–29.]

**WAREHOUSER'S LIEN**

warehouser's lien. See **LIEN**.

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**WAREHOUSE SYSTEM**

warehouse system. A system of maintaining bonded warehouses so that importers can either store goods for reexportation without paying customs duties or store the goods without paying duties until the goods are removed for domestic consumption. See bonded warehouse under WAREHOUSE.

**WAREHOUSE-TO-WAREHOUSE COVER**

warehouse-to-warehouse cover. Insurance coverage for goods protecting against damage at any time during the shipping process, including the loading and unloading of the goods. See COMPLETE-OPERATION RULE. Cf. COMING-TO-REST DOCTRINE . [Cases: Insurance 2681. C.J.S. Insurance §§ 1060, 1609.]

**WAREHOUSING**

warehousing. 1. A mortgage banker's holding of mortgages until the resale market improves. 2. A corporation's giving of advance notice of a tender offer to institutional investors, who can then buy stock in the target company before public awareness of the takeover inflates the stock's price. See TENDER OFFER.

**WARFARE**

warfare. 1. The act of engaging in war or military conflict. See WAR. [Cases: War and National Emergency 9. C.J.S. War and National Defense § 4.] 2. Loosely, the act of engaging in any type of conflict.

biological warfare. The use of biological or infectious agents in war, usu. by delivering them via airplanes or ballistic missiles.

economic warfare. 1. A hostile relationship between two or more countries in which at least one tries to damage the other's economy for economic, political, or military ends. 2. The collective measures that might be taken to achieve such ends. [Cases: War and National Emergency 12, 14. C.J.S. War and National Defense §§ 8, 13–22, 84–85.]

guerrilla warfare. Hostilities that are conducted by individuals or small groups who are usu. not part of an organized army and who fight by means of surprise attacks, ambushes, and sabotage. • Formerly, it was thought that the hostilities had to be conducted in enemy-occupied territory. Typically, guerrilla warfare is carried out only when geographical conditions are favorable and when the civilian population is at least partly cooperative.

land warfare. Hostilities conducted on the ground, as opposed to at sea or in the air.

**WAR-MONGERING PROPAGANDA**

war-mongering propaganda. See PROPAGANDA.

**WARN**

WARN (worn). abbr. WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT.



**WARNING**

warning. The pointing out of a danger, esp. to one who would not otherwise be aware of it. • State and federal laws (such as 21 USCA § 825) require warning labels to be placed on potentially dangerous materials, such as drugs and equipment. [Cases: Products Liability 14. C.J.S. Products Liability §§ 25–29.]

adequate warning. A warning that reasonably alerts a product's average user to a potential hazard, and the nature and extent of the danger. • Four elements have been articulated as comprising an adequate warning: (1) notice that a severe hazard exists, (2) a description of the hazard's nature, (3) a description of the hazard's possible consequences, and (4) instructions on how to avoid the hazard. In addition, the warning must be prominently displayed, and may have to illustrate the nature and severity of the hazard with pictographs. [Cases: Products Liability 14. C.J.S. Products Liability §§ 25–29.]

**WARNISTURA**

warnistura (wor-n<<schwa>>-st[y]oor-<<schwa>>), n. [Law Latin] Hist. Furniture; provision.

**WARNOOTH**

warnoth (wor-noht). Hist. A custom by which a tenant who failed to pay rent on a set day had to pay double the amount due, and on failing a second time had to pay triple (and so on).

**WAR POWER**

war power. The constitutional authority of Congress to declare war and maintain armed forces (U.S. Const. art. I, § 8, cls. 11–14), and of the President to conduct war as commander-in-chief (U.S. Const. art. II, § 2, cl. 1). [Cases: War and National Emergency 2. C.J.S. War and National Defense § 2.]

**WAR-POWERS RESOLUTION**

war-powers resolution. A resolution passed by Congress in 1973 (over the President's veto) restricting the President's authority to involve the United States in foreign hostilities without congressional approval, unless the United States or one of its territories is attacked. 50 USCA §§ 1541–1548. [Cases: War and National Emergency 37. C.J.S. War and National Defense §§ 6, 54.]

**WARRANTICE**

warrantice (wahr-<<schwa>>n-dis or -dIs). Scots law. An obligation to indemnify the grantee or buyer of land if another person establishes a superior title and takes possession.

personal warrantice. An obligation to indemnify that binds the grantor and the grantor's heirs.

real warrantice. An obligation by which certain lands are made over as security for lands conveyed to the grantee and will be transferred to the grantee if he or she is evicted from the conveyed lands by a third party.

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**WARRANT**

warrant, n.1. A writ directing or authorizing someone to do an act, esp. one directing a law enforcer to make an arrest, a search, or a seizure.

administrative warrant. A warrant issued by a judge at the request of an administrative agency.

• This type of warrant is sought to conduct an administrative search. See administrative search under SEARCH. — Also termed administrative search warrant. [Cases: Searches and Seizures 129. C.J.S. Searches and Seizures § 189.]

anticipatory search warrant. See SEARCH WARRANT.

arrest warrant. A warrant, issued only on probable cause, directing a law-enforcement officer to arrest and bring a person to court. — Also termed warrant of arrest. [Cases: Criminal Law 215–220. C.J.S. Criminal Law §§ 334–335, 337–338.]

bench warrant. See BENCH WARRANT.

blanket search warrant. See SEARCH WARRANT.

border warrant. A writ of arrest or other warrant concerning debts owed, issued on one side of a national border for execution on the other side; esp., such a warrant issued on either side of the border between England and Scotland.

commitment warrant. See warrant of commitment.

death warrant. A warrant authorizing a warden or other prison official to carry out a death sentence. • A death warrant typically sets the time and place for a prisoner's execution. [Cases: Sentencing and Punishment 1795. C.J.S. Criminal Law §§ 1591–1592.]

distress warrant. 1. A warrant authorizing a court officer to distrain property. See DISTRESS. 2. A writ allowing an officer to seize a tenant's goods for failing to pay rent due to the landlord. [Cases: Landlord and Tenant 270(6). C.J.S. Landlord and Tenant § 688.]

escape warrant. 1. A warrant directing a peace officer to rearrest an escaped prisoner. 2. Hist. A warrant granted to retake a prisoner who had escaped from a royal prison after being committed there. • The warrant was obtained on affidavit from the judge of the court in which the action had been brought, and was directed to all sheriffs throughout England, commanding them to retake and commit the prisoner to the nearest jail.

extradition warrant. A warrant for the return of a fugitive from one jurisdiction to another. Cf. rendition warrant. [Cases: Extradition and Detainers 12, 36.]

fugitive warrant. A warrant that authorizes law-enforcement officers to take into custody a person who has fled from one state to another to avoid prosecution or punishment.

general warrant. 1. Hist. A warrant issued by the English Secretary of State for the arrest of the author, printer, or publisher of a seditious libel, without naming the persons to be arrested. • General warrants were banned by Par-liament in 1766.

“A practice had obtained in the secretaries office ever since the restoration, grounded on some clauses in the acts for regulating the press, of issuing general warrants to take up (without naming any person in particular) the authors, printers and publishers of such obscene or seditious libels, as were particularly specified in the warrant. When those acts expired in 1694, the same practice was inadvertently continued, in every reign and under every administration, except the four last years of queen Anne, down to the year 1763: when such a warrant being issued to apprehend the authors, printers and publishers of a certain seditious libel, its validity was disputed; and the warrant was adjudged by the whole court of king's bench to be void, in the case of *Money v. Leach*. Trin. 5 Geo. III. B.R. After which the issuing of such general warrants was declared illegal by a vote of the house of commons.” 4 William Blackstone, *Commentaries on the Laws of England* 288 n.i (1769).

2. A warrant that gives a law-enforcement officer broad authority to search and seize unspecified places or persons; a search or arrest warrant that lacks a sufficiently particularized description of the person or thing to be seized or the place to be searched. • General warrants are unconstitutional because they fail to meet the Fourth Amendment's specificity requirements.

“But though there are precedents of general warrants to search all suspected places for stolen goods, these are not at common law legal, because it would be extremely dangerous to leave it to the discretion of a common officer to arrest what person, or search what houses he thinks fit. And in the great case of *Money v. Leach*, it was declared by Lord Mansfield, that a warrant to search for, and secure the person and papers of the author, printer and publisher of a libel, is not only illegal in itself, but is so improper on the face of it, that it will afford no justification to an officer acting under its sanction. And by two resolutions of the House of Commons such general warrants were declared to be invalid.” 1 Joseph Chitty, *A Practical Treatise on the Criminal Law* 66 (2d ed. 1826).

**John Doe warrant.** A warrant for the arrest of a person whose name is unknown. • A John Doe warrant may be issued, for example, for a person known by sight but not by name. This type of warrant is permitted in a few states, but not in federal practice.

**justice's warrant.** See peace warrant.

**landlord's warrant.** A type of distress warrant from a landlord to seize the tenant's goods, to sell them at public sale, and to compel the tenant to pay rent or observe some other lease stipulation. See **DISTRAIN**; **DISTRESS**.

**no-knock search warrant.** See **SEARCH WARRANT**.

**outstanding warrant.** An unexecuted arrest warrant.

**peace warrant.** A warrant issued by a justice of the peace for the arrest of a specified person. — Also termed justice's warrant.

**possessory warrant.** A process, similar to a search warrant, used under certain circumstances by a plaintiff to search for and recover property wrongfully taken or held by another.

**preliminary warrant.** A warrant to bring a person to court for a preliminary hearing on

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probable cause.

probation-violation warrant. See violation warrant.

rendition warrant. A warrant requesting the extradition of a fugitive from one jurisdiction to another. Cf. extradition warrant. [Cases: Extradition and Detainers 16, 36.]

search warrant. See SEARCH WARRANT.

surreptitious-entry warrant. A warrant that authorizes a law officer to enter and observe an ongoing criminal operation (such as an illegal drug lab).

tax warrant. An official process that is issued for collecting unpaid taxes and under which property may be seized and sold.

valid warrant. A warrant that is regular in form and is issued by a court, body, or official having both the authority to issue the warrant for the purpose stated and jurisdiction over the person named, all the requisite proceedings for its proper issuance having taken place.

violation warrant. A warrant issued for the arrest of a convict who has violated the terms of probation, parole, or supervised release. — Also termed (narrowly) probation-violation warrant.

warrant of arrest. See arrest warrant.

warrant of commitment. A warrant committing a person to custody. — Also termed commitment warrant.

warrant upon indictment or information. An arrest warrant issued at the request of the prosecutor for a defendant named in an indictment or information. Fed. R. Crim. P. 9.

2. A document conferring authority, esp. to pay or receive money.

deposit warrant. A warehouse receipt used as security for a loan.

dock warrant. See DOCK RECEIPT.

interest warrant. An order drawn by a corporation on its bank directing the bank to pay interest to a bondholder.

municipal warrant. An order to draw money from a municipality's treasury for the payment of the municipality's expenses or debts. [Cases: Municipal Corporations 895. C.J.S. Municipal Corporations § 1636.]

tax-anticipation warrant. A warrant that is issued to raise public money and that is payable out of tax receipts when collected.

treasury warrant. An order in the form of a check on which government disbursements are paid. [Cases: United States 87.]

3. An order by which a drawer authorizes someone to pay a particular sum of money to another. [Cases: Bills and Notes 1. C.J.S. Bills and Notes; Letters of Credit §§ 2–3, 5–6, 8–9, 17–18, 22.]

county warrant. A warrant drawn by a county official, directing the county treasurer to pay a sum of money out of county funds to bearer, to a named individual, or to the named individual's order. [Cases: Counties 163. C.J.S. Counties § 208.]

4. Securities. An instrument granting the holder a long-term (usu. a five- to ten-year) option to buy shares at a fixed price. • It is commonly attached to preferred stocks or bonds. — Also termed stock warrant; subscription warrant. [Cases: Corporations 72. C.J.S. Corporations §§ 146–147.]

warrant, vb. 1. To guarantee the security of (realty or personalty, or a person) <the store warranted the safety of the customer's jewelry>. 2. To give warranty of (title); to give warranty of title to (a person) <the seller warrants the property's title to the buyer>. [Cases: Covenants 45, 67. C.J.S. Covenants §§ 22, 29.] 3. To promise or guarantee <warrant payment>.

“Even today lawyers use the verb ‘to warrant’ meaning to promise without necessarily indicating that the promise is a warranty.” P.S. Atiyah, *An Introduction to the Law of Contract* 145 n.1 (3d ed. 1981).

4. To justify <the conduct warrants a presumption of negligence>. 5. To authorize <the manager warranted the search of the premises>.

#### WARRANT ARREST

warrant arrest. See lawful arrest under ARREST.

#### WARRANT CLAUSE

Warrant Clause. The clause of the Fourth Amendment to the U.S. Constitution requiring that warrants be issued only on probable cause. [Cases: Arrest 63.1; Searches and Seizures 23, 24. C.J.S. Arrest §§ 16, 19–20, 38–42; Searches and Seizures §§ 3, 5, 9–12, 14–16, 23–24, 29–30, 32, 34, 47–48, 50, 58, 102.]

#### WARRANT CREDITOR

warrant creditor. See CREDITOR.

#### WARRANTED ARREST

warranted arrest. See ARREST.

#### WARRANTED SEARCH

warranted search. See SEARCH.

#### WARRANTEE

warantee (wor- <<schwa>> n-teeor wahr-). A person to whom a warranty is given; esp., a person who receives a written warranty. • The term also sometimes applies to the beneficiary of an implied warranty.

#### WARRANTIA CHARTAE

warrantia chartae. See DE WARRANTIA CHARTAE.

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**WARRANTIA CUSTODIAE**

warrantia custodiae (w<<schwa>>-ran-shee-<<schwa>> k<<schwa>>-stoh-dee-ee), n.[Law Latin] Hist. A writ for a purchaser of land held in knight's service against the seller (and heirs), who had warranted that the land was free of wardship when a wardship was later claimed.

**WARRANTIA DIEI**

warrantia diei.See DE WARRANTIA DIEI.

**WARRANTIZARE**

warrantizare (wor-<<schwa>>n-t<<schwa>>-zair-ee), vb.[Law Latin] Hist. To warrant by covenant (in a deed of conveyance) to defend the grantee's title and possession. — Also spelled warrantizare.

**WARRANTLESS ARREST**

warrantless arrest.See ARREST.

**WARRANTLESS SEARCH**

warrantless search.See SEARCH.

**WARRANT OF ARREST**

warrant of arrest.See arrest warrant under WARRANT(1).

**WARRANT OF ATTORNEY**

warrant of attorney. 1.POWER OF ATTORNEY(1).2.Archaic. Written authority given by a client to a lawyer to appear in court and to confess judgment in favor of a specified party. • It usu. instructed the attorney not to bring any action, seek a writ of error, or file a bill in equity that might delay the judgment. The warrant was typically given as security for an obligation on which judgment was authorized. Cf. CONFESSION OF JUDGMENT; COGNOVIT. [Cases: Judgment 43. C.J.S. Judgments §§ 157, 164–166.]

“A warrant of attorney was not required to be under seal, though it generally was so. In order to guard against any imposition in procuring debtors to execute warrants of attorney or cognovits in ignorance of the effect of such instruments, it is provided that a warrant of attorney to confess judgment in any personal action, or cognovit actionem, given by any person, shall not be of any force, unless there is present some attorney of one of the superior courts on behalf of such person, expressly named by him and attending at his request, to inform him of the nature and effect of such warrant or cognovit, before the same is executed ....” Joshua Williams, *Principles of the Law of Personal Property* 125 (11th ed. 1881).

**WARRANT OF COMMITMENT**

warrant of commitment.See WARRANT(1).

**WARRANT OF CONFESSION**

warrant of confession. See CONFESSIO OF JUDGMENT.

#### WARRANT OFFICER

warrant officer. 1. OFFICER(2). 2. SERGEANT-AT-ARMS(4).

#### WARRANTOR

warrantor (wor-*<<schwa>>*n-tor or -t*<<schwa>>*r orwahr-). A person who gives a written warranty or becomes obligated under an implied warranty. See 15 USCA § 2301(5).

#### WARRANT RECALL

warrant recall, n. A procedure for removing from government computers information about canceled warrants in order to avoid repeated or mistaken arrests.

#### WARRANT TO SUE AND DEFEND

warrant to sue and defend. Hist. 1. Written authority given by a client to a lawyer to authorize commencement or defense of a lawsuit. 2. A special warrant from the Crown authorizing a party to appoint an attorney to sue or defend on the party's behalf.

#### WARRANT UPON INDICTMENT OR INFORMATION

warrant upon indictment or information. See WARRANT(1).

#### WARRANTY

warranty (wor-*<<schwa>>*n-tee orwahr-), n. 1. Property. A covenant by which the grantor in a deed promises to secure to the grantee the estate conveyed in the deed, and pledges to compensate the grantee with other land if the grantee is evicted by someone having better title. • The covenant is binding on the grantor's heirs. See COVENANT(4). Cf. quitclaim deed under DEED. [Cases: Covenants 45, 67. C.J.S. Covenants §§ 22, 29.]

collateral warranty. A warranty that is made by a stranger to the title, and that consequently runs only to the covenantee and not with the land. [Cases: Covenants 45, 67. C.J.S. Covenants §§ 22, 29.]

general warranty. A warranty against the claims of all persons. [Cases: Covenants 47, 67. C.J.S. Covenants §§ 23, 29.]

lineal warranty. Hist. A warranty existing when an heir derives title to land from the warrantor; a warranty from the same ancestor as the one from whom the land derived.

special warranty. A warranty against any person's claim made by, through, or under the grantor or the grantor's heirs. [Cases: Covenants 48, 67. C.J.S. Covenants §§ 24, 29.]

2. Contracts. An express or implied promise that something in furtherance of the contract is guaranteed by one of the contracting parties; esp., a seller's promise that the thing being sold is as represented or promised. • A warranty differs from a representation in four principal ways: (1) a warranty is an essential part of a contract, while a representation is usu. only a collateral

inducement, (2) an express warranty is usu. written on the face of the contract, while a representation may be written or oral, (3) a warranty is conclusively presumed to be material, while the burden is on the party claiming breach to show that a representation is material, and (4) a warranty must be strictly complied with, while substantial truth is the only requirement for a representation. Cf. CONDITION(2), (3); GUARANTEE(1). [Cases: Contracts 205.5; Sales 246–288.5. C.J.S. Contracts § 341; Sales §§ 236–280, 282–284, 286, 288–289.] “[T]wo points must be borne in mind. In the first place, the words ‘condition’ and ‘warranty’ are not invariably kept as distinct as accuracy of definition demands; and in insurance law especially ‘warranty’ is very commonly used in the sense ascribed to ‘condition’ .... In the second place, the injured party, if he chooses to waive his right to repudiate the contract on breach of a condition, may still bring an action for such damages as he has sustained.” William R. Anson, *Principles of the Law of Contract* 223 (Arthur L. Corbin ed., 3d Am. ed. 1919).

**as-is warranty.** A warranty that goods are sold with all existing faults. See AS IS. [Cases: Sales 267. C.J.S. Sales §§ 238, 263–270.]

**construction warranty.** A warranty from the seller or building contractor of a new home that the home is free of structural, electrical, plumbing, and other defects and is fit for its intended purpose. [Cases: Contracts 205.35(2). C.J.S. Contracts § 359.]

**deceptive warranty.** A warranty containing false or fraudulent representations or promises. [Cases: Consumer Protection 6. C.J.S. Credit Reporting Agencies; Consumer Protection §§ 29–31, 33–39, 60–65.]

**express warranty.** A warranty created by the overt words or actions of the seller. • Under the UCC, an express warranty is created by any of the following: (1) an affirmation of fact or promise made by the seller to the buyer relating to the goods that becomes the basis of the bargain; (2) a description of the goods that becomes part of the basis of the bargain; or (3) a sample or model made part of the basis of the bargain. UCC § 2-313. [Cases: Contracts 205.10; Sales 259. C.J.S. Contracts § 359; Sales § 242.]

“An express warranty arises from the contract itself, from the ‘dickered’ aspects of the individual bargain. Any affirmation or promise relating to the goods, any description of the goods, and any sample or model of the goods becomes an express warranty if it is ‘part of the basis of the bargain.’ ” 1 Julian B. McDonnell & Elizabeth J. Coleman, *Commercial and Consumer Warranties* ¶ 1.02[1], at 1-7 (1991).

**extended warranty.** An additional warranty often sold with the purchase of consumer goods (such as appliances and motor vehicles) to cover repair costs not otherwise covered by a manufacturer's standard warranty, by extending either the standard-warranty coverage period or the range of defects covered. — Also termed extended service warranty; extended service contract. [Cases: Sales 279. C.J.S. Sales §§ 249, 256, 258, 261, 283.]

**full warranty.** A warranty that fully covers labor and materials for repairs. • Under federal law, the warrantor must remedy the consumer product within a reasonable time and without charge after notice of a defect or malfunction. 15 USCA § 2304. See MAGNUSON–MOSS



WARRANTY ACT. Cf. limited warranty. [Cases: Consumer Protection 6; Sales 279. C.J.S. Credit Reporting Agencies; Consumer Protection §§ 29–31, 33–39, 60–65; Sales §§ 249, 256, 258, 261, 283.]

implied warranty. An obligation imposed by the law when there has been no representation or promise; esp., a warranty arising by operation of law because of the circumstances of a sale, rather than by the seller's express promise. [Cases: Contracts 205.15; Sales 262.5. C.J.S. Contracts § 359; Sales § 252.]

implied warranty of fitness for a particular purpose. A warranty — implied by law if the seller has reason to know of the buyer's special purposes for the property — that the property is suitable for those purposes. — Sometimes shortened to warranty of fitness. [Cases: Contracts 205.15(3); Sales 273(1). C.J.S. Contracts §§ 347, 359; Sales §§ 258–260.]

“Those unfamiliar with the differences between the warranty of merchantability (fitness for the ordinary purposes for which such goods are used) and the warranty of fitness for a particular purpose often confuse the two; one can find many opinions in which the judges used the terms ‘merchantability’ and ‘fitness for a particular purpose’ interchangeably. Such confusion under the Code is inexcusable.” 1 James J. White & Robert S. Summers, Uniform Commercial Code § 9-10, at 527 (4th ed. 1995).

implied warranty of habitability. In a residential lease, a warranty from the landlord to the tenant that the leased property is fit to live in and that it will remain so during the term of the lease. — Also termed covenant of habitability. [Cases: Landlord and Tenant 125(1).]

implied warranty of merchantability. A warranty that the property is fit for the ordinary purposes for which it is used. • Under the UCC, an implied warranty of merchantability arises whenever a merchant sells goods unless the agreement expressly provides otherwise. UCC § 2-314. — Sometimes shortened to warranty of merchantability. [Cases: Contracts 205.15(3); Sales 272. C.J.S. Contracts §§ 347, 359; Sales §§ 254–256.]

“The implied warranty of merchantability attaches when the seller is a merchant with respect to the goods involved in the exchange. Accordingly, the product must meet certain standards; it must pass without objection in the trade under the contract description and it must be fit for the ordinary purposes for which such goods are used. The concepts of marketability, operability, and repairability have emerged as varying criteria for merchantable goods.” 1 Julian B. McDonnell & Elizabeth J. Coleman, Commercial and Consumer Warranties ¶ 1.02[1], at 1-7 (1991).

limited warranty. A warranty that does not fully cover labor and materials for repairs. • Under federal law, a limited warranty must be clearly labeled as such on the face of the warranty. See MAGNUSON–MOSS WARRANTY ACT. Cf. full warranty. [Cases: Sales 279. C.J.S. Sales §§ 249, 256, 258, 261, 283.]

personal warranty. A warranty arising from an obligation to pay all or part of the debt of another.

presentment warranty. An implied promise concerning the title and credibility of an

instrument, made to a payor or acceptor upon presentment of the instrument for payment or acceptance. UCC § 3-417. [Cases: Banks and Banking 149, 174; Bills and Notes 296, 326. C.J.S. Banks and Banking §§ 416, 419, 421–434, 437–438; Bills and Notes; Letters of Credit §§ 162–165.]

transfer warranty. 1. An implied promise concerning the title and credibility of an instrument, made by a transferor to a transferee and, if the transfer is by indorsement, to remote transferees. UCC §§ 3-417, 4-207. [Cases: Banks and Banking 149, 174; Bills and Notes 296, 326. C.J.S. Banks and Banking §§ 416, 419, 421–434, 437–438; Bills and Notes; Letters of Credit §§ 162–165.] 2. A warranty made by a transferee of a document of title upon a transfer of the document for value to the immediate transferee. UCC § 7-507. [Cases: Carriers 58. C.J.S. Carriers §§ 400, 402.]

warranty ab initio (ab i-nish-ee-oh). An independent subsidiary promise whose breach does not discharge the contract, but gives to the injured party a right of action for the damage sustained as a result of the breach. Cf. warranty ex post facto. [Cases: Contracts 318; Sales 282. C.J.S. Contracts §§ 334, 450–455, 541–544; Sales §§ 237, 239, 251, 278–280.]

warranty against infringement. A merchant's warranty that the goods being sold or licensed do not violate any patent, copyright, trademark, or other intellectual-property claim. • The warranty does not arise if the buyer provides the seller with the specifications for the goods purchased. Under § 2-312(3) of the Uniform Commercial Code, the warranty against infringement is a part of the warranty of title unless it is explicitly disclaimed.

warranty ex post facto (eks pohst fak-toh). A broken condition for which the injured party could void the contract, but decides instead to continue the contract, with a right of action for the broken condition (which amounts to a breached warranty). See CONDITION(2). Cf. warranty ab initio. [Cases: Contracts 318; Sales 282. C.J.S. Contracts §§ 334, 450–455, 541–544; Sales §§ 237, 239, 251, 278–280.]

warranty of actual title. See warranty of title.

warranty of assignment. An assignor's implied warranty that he or she (1) has the rights assigned, (2) will do nothing to interfere with those rights, and (3) knows of nothing that impairs the value of the assignment. [Cases: Assignments 97. C.J.S. Assignments § 90.]

warranty of authorship. Copyright. An author's contractual warranty that the work is an original work by that author. [Cases: Copyrights and Intellectual Property 49. C.J.S. Copyrights and Intellectual Property §§ 27, 30, 33–34, 93.]

warranty of fitness. See implied warranty of fitness for a particular purpose.

warranty of merchantability. See implied warranty of merchantability.

warranty of title. A warranty that the seller or assignor of property has title to that property, that the transfer is rightful, and that there are no liens or other encumbrances beyond those that the buyer or assignee is aware of at the time of contracting. • This warranty arises automatically whenever anyone sells goods. — Also termed war-ranty of actual title. [Cases: Covenants 38–48,

62–67; Sales 263. C.J.S. Covenants §§ 14–24, 29, 46–47; Sales §§ 261, 272.]

written warranty.A warranty made in writing; specif., any written affirmation or promise by a supplier of a consumer product to a buyer (for purposes other than resale), forming the basis of the bargain and providing that the material or workmanship is free of defects or will be repaired or replaced free of charge if the product fails to meet the required specifications. 15 USCA § 2301. [Cases: Sales 260. C.J.S. Sales §§ 247–248, 265.]

Y2K warranty.See Y2KWARRANTY.

3.Insurance. A pledge or stipulation by the insured that the facts relating to the person insured, the thing insured, or the risk insured are as stated. [Cases: Insurance 2967, 3036. C.J.S. Insurance §§ 537, 539, 541–545, 566, 569, 587, 591–593, 596, 628–629, 634, 639, 702, 706, 708, 720, 761–763, 771, 775.]

affirmative warranty.A warranty — express or implied — that facts are as stated at the beginning of the policy period. • An affirmative warranty is usu. a condition precedent to the policy taking effect. [Cases: Insurance 2967. C.J.S. Insurance §§ 539, 541–545, 566, 587, 591–593, 596, 628, 702, 706, 708, 761–763, 775.]

executory warranty.A warranty that arises when an insured undertakes to perform some executory stipulation, such as a promise that certain acts will be done or that certain facts will continue to exist. [Cases: Insurance 3036. C.J.S. Insurance §§ 537, 542–545, 569, 629, 634, 639, 706, 720, 761–762, 771.]

promissory warranty.A warranty that facts will continue to be as stated throughout the policy period, such that a failure of the warranty provides the insurer with a defense to a claim under the policy. — Also termed continuing warranty. [Cases: Insurance 3036. C.J.S. Insurance §§ 537, 542–545, 569, 629, 634, 639, 706, 720, 761–762, 771.]

#### WARRANTY CLAUSE

warranty clause. 1. A contractual clause containing a warranty. 2.Oil & gas. A provision in an oil-and-gas lease by which the lessor guarantees that title is without defect and agrees to defend it. • If the warranty is breached, the lessor may be held liable to the lessee to the extent that the lessor has received payments under the lease. Presence of a warranty in an oil-and-gas lease may also cause after-acquired interests to pass from the lessor to the lessee by application of estoppel by deed.

#### WARRANTY DEED

warranty deed.See DEED.

#### WARREN

warren (wor-<<schwa>>n orwahr-<<schwa>>n).1. A place for the preservation of certain wildlife (such as pheasants, partridges, or rabbits).2. A privilege to keep wildlife or game in a warren. 3. The area to which the privilege extends.

free warren. A warren privilege giving the grantee the sole right to kill the wildlife to the extent of the grantee's warren area. — Also termed *libera warrena*.

“Free warren is a ... franchise, erected for preservation or custody ... of beasts and fowls of warren; which being *ferae naturae*, every one had a right to kill as he could; but upon the introduction of the forest laws ... these animals being looked upon as royal game and the sole property of our savage monarchs, this franchise of free warren was invented to protect them; by giving the grantee a sole and exclusive power of killing such game ... on condition of his preventing other persons. A man therefore that has the franchise of warren is in reality no more than a royal gamekeeper; but no man, not even a lord of a manor, could by common law justify sporting on another's soil, or even on his own, unless he had the liberty of free warren.” 2 William Blackstone, *Commentaries on the Laws of England* 38–39 (1766).

#### WAR-RISK INSURANCE

war-risk insurance. See INSURANCE.

#### WARSAW CONVENTION

Warsaw Convention. Int'l law. A treaty (to which the United States is a party) negotiated in Warsaw, Poland, in 1929, consisting of uniform rules governing claims made for personal injuries arising out of international air travel. Cf. MONTREAL AGREEMENT. [Cases: Carriers 307; Treaties 8.C.J.S. Aeronautics and Aerospace §§ 265, 267; Carriers § 573; Treaties § 6.]

“Under the [Warsaw] Convention ... air carriers are absolutely liable up to a preset monetary ceiling for any accident in which a passenger suffers bodily injury or death, as long as the accident took place on board the aircraft or in the process of any of the operations of embarking or disembarking. The Convention limits the liability of the carrier for each passenger to the sum of 125,000 francs, unless the carrier and passenger by special contract agree to a higher limit of liability, or unless it can be established that the carrier has been guilty of ‘willful misconduct.’ The Convention contains a two-year time limitation for bringing suit, and also absolves the carrier from liability upon a showing of due care on its part.” 8A Am. Jur. 2d Aviation § 149, at 160–61 (1997).

#### WARSHIP

warship. Int'l law. A ship commissioned by a nation's military, operating with a military command and crew and displaying the nation's flag or other external marks indicating its country of origin. • Under international maritime laws, warships are not subject to many of the safety and environmental regulations that apply to shipping vessels and passenger ships.

#### WARTH

warth. See WARDPENNY.

#### WARWIT

warwit. See WARDWIT.

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**WAR ZONE**

war zone. Int'l law. A designated area, on land or at sea, within which the rights of neutral countries are not respected by belligerent countries. [Cases: War and National Emergency 32. C.J.S. War and National Defense § 49.]

**WASH**

wash, n. 1. A situation in which two effects offset each other. • For example, if an event produces gross income and also a deduction in the same amount so that taxable income is unchanged, the event creates a wash. 2. The shallow part of a river or the arm of a sea; the sand, rocks, and gravel washed down by a mountain stream and deposited on level land near the mouth of a canyon.

**WASH SALE**

wash sale. See SALE.

**WASH TRANSACTION**

wash transaction. See wash sale under SALE.

**WASTE**

waste, n. 1. Permanent harm to real property committed by a tenant (for life or for years) to the prejudice of the heir, the reversioner, or the remainderman. • In the law of mortgages, any of the following acts by the mortgagor may constitute waste: (1) physical damage, whether intentional or negligent, (2) failure to maintain and repair, except for repair of casualty damage or damage caused by third-party acts, (3) failure to pay property taxes or governmental assessments secured by a lien having priority over the mortgage, so that the payments become delinquent, (4) the material failure to comply with mortgage covenants concerning physical care, maintenance, construction, demolition, or casualty insurance, or (5) keeping the rents to which the mortgagee has the right of possession. — Also termed devastation; vastum. [Cases: Waste 1. C.J.S. Waste §§ 1–4, 6–9.]

“The old action of waste was a mixed action, being founded in part on the statute of Gloucester (A.D. 1278), which provided that ‘he which shall be attainted of waste shall lose the thing wasted, and moreover shall recompense thrice as much as the waste shall be taxed at.’ The action was to recover the land in which waste had been done and the treble damages. The statute of Gloucester was imported into this country, but many variant statutes now regulate the subject.” Edwin E. Bryant, *The Law of Pleading Under the Codes of Civil Procedure* 13 (2d ed. 1899).

active waste. See commissive waste.

affirmative waste. See commissive waste.

ameliorating waste (<<schwa>>-meel-y<<schwa>>-ray-ting). A lessee's unauthorized change to the physical character of a lessor's property — technically constituting waste, but in fact resulting in improvement of the property. • Generally, equity will not enjoin such waste. — Also

termed ameliorative waste.

commissive waste (k<<schwa>>-mis-iv). Waste caused by the affirmative acts of the tenant. — Also termed active waste; affirmative waste; voluntary waste. [Cases: Landlord and Tenant 55(2). C.J.S. Landlord and Tenant § 261.]

double waste.Hist. The destruction occurring when a tenant having a duty to repair allows a house to deteriorate, and then unlawfully cuts down timber to repair it.

economic waste.See ECONOMIC WASTE.

equitable waste.Waste that abuses a privilege of nonimpeachability at common law, for which equity will restrain the commission of willful, destructive, malicious, or extravagant waste; esp., waste caused by a life tenant who, although ordinarily not responsible for permissive waste, flagrantly damages or destroys the property. [Cases: Waste 4. C.J.S. Waste § 6.]

“A life tenant with the benefit of an express exemption from liability for voluntary waste will nevertheless be restrained in equity from committing acts of flagrant destruction to the premises; hence the (seemingly paradoxical) term, ‘equitable waste’. A life tenant who has engaged in, or who threatens to engage in, reprehensible acts of voluntary waste will not be permitted unconscientiously to shield behind his legal right to commit waste to the detriment of those next entitled to enjoyment of the property, for this would be to abuse the legal right.” Peter Butt, *Land Law* 114–15 (2d ed. 1988).

permissive waste.A tenant's failure to make normal repairs to property so as to protect it from substantial deterioration. [Cases: Waste 3. C.J.S. Waste § 8.]

voluntary waste.Waste resulting from some positive act of destruction. See commissive waste. [Cases: Waste 1. C.J.S. Waste §§ 1–4, 6–9.]

“Voluntary waste. This involves some positive act of injury to the property, diminishing its value for the person next in succession; it is a deliberate and active change to the property. Examples are altering the character of premises by demolishing internal walls and fittings or opening and working a mine on the land (but not working a mine already opened, for the pre-existence of the mine shows an intention on the part of the grantor that the profits from the mine are to be enjoyed by the life tenant). A life tenant is liable for voluntary waste, unless the instrument conferring the interest expressly exempts liability for voluntary waste.” Peter Butt, *Land Law* 114 (2d ed. 1988).

2. Refuse or superfluous material, esp. that remaining after a manufacturing or chemical process <toxic waste>.

hazardous waste.Waste that — because of its quantity, concentration, or physical, chemical, or infectious characteristics — may cause or significantly contribute to an increase in mortality or otherwise harm human health or the environment. 42 USCA § 6903(5). — Also termed hazardous substance. [Cases: Environmental Law 427.]

toxic waste.Hazardous, poisonous substances, such as dichlorodiphenyltrichloroethane

(DDT). • Most states regulate the handling and disposing of toxic waste, and several federal statutes (such as the Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA), 42 USCA §§ 9601–9657) regulate the use, transportation, and disposal of toxic waste. [Cases: Environmental Law 427.]

#### WASTE BOOK

waste book. A merchant's book for making rough entries of transactions before posting them into a journal. — Also termed blotter.

#### WASTED VOTE

wasted vote. See VOTE(1).

#### WASTEWATER

wastewater. See WATER.

#### WASTING ASSET

wasting asset. See ASSET.

#### WASTING PROPERTY

wasting property. See PROPERTY.

#### WASTING TRUST

wasting trust. See TRUST.

#### WASTOR

wastor, n. Hist. A type of thief, classified in a statute of Edward III with marauding vagabonds and burglars who entered premises by lifting door latches. 5 Edw. 3, ch. 14.

#### WATCH

watch, n. Maritime law. 1. A division of a ship's crew <port or starboard watch>. [Cases: Collision 77, 81, 99. C.J.S. Collision §§ 129–137, 143–147.] 2. The division of the day into time periods of service by officers and the crew <four-hour watch>.

watch, vb. Hist. To stand guard during the night.

#### WATCH AND WARD

watch and ward, n. Hist. A feudal duty that some tenants had to keep guard through continuous vigilance. • The phrase denotes keeping guard by night (watch) and by day (ward). — Also termed watching and warding.

#### WATER

water. 1. The transparent liquid that is a chemical compound of hydrogen and oxygen (H<sub>2</sub>O). 2. A body of this liquid, as in a stream, river, lake, or ocean.

**backwater.** Water in a stream that, because of a dam or obstruction, cannot flow forward and sometimes flows back. [Cases: Waters and Water Courses 53, 159–175. C.J.S. Waters §§ 20, 25–27, 33–47, 59–60, 297–307, 311–318, 321–327.]

**coast water.** Tidewater navigable by an ocean vessel; all water opening directly or indirectly into the ocean and navigable by a vessel coming in from the ocean. — Also termed coastal water.

**developed water.** Water brought to the surface and made available for use by the party claiming the water rights.

**diffused surface water.** Water, such as rainfall runoff, that collects and flows on the ground but does not form a watercourse. • Surface water is usu. subject to different regulations from water flowing in a watercourse. — Often shortened to surface water. See COMMON-ENEMY DOCTRINE; WATERCOURSE. [Cases: Waters and Water Courses 115. C.J.S. Waters § 254.]

**excess water.** Water that is flowing in a stream in addition to what may be termed adjudicated waters; any water not needed for the reasonable beneficial uses of those having priority rights. — Also termed surplus water.

**floodwater.** Water that escapes from a watercourse in large volumes and flows over adjoining property in no regular channel.

**foreign water.** Water belonging to another nation or subject to another jurisdiction.

**groundwater.** Water found in layers of permeable rock or soil.

**inland waters.** See INTERNAL WATERS.

**internal waters.** See INTERNAL WATERS.

**navigable water.** See NAVIGABLE WATER.

**navigable water of the United States.** See NAVIGABLE WATER.

**percolating water.** Water that oozes or seeps through the soil without a defined channel (such as rainwater or other water that has lost its status as part of a stream). • Percolating water usu. constitutes part of the land on which it is found. [Cases: Waters and Water Courses 101. C.J.S. Waters §§ 193, 195–197, 201–204.]

**posted water.** (usu. pl.) A body of water that is reserved for the exclusive use of the person who owns the land surrounding it. • The owner secures the exclusive use by posting a notice prohibiting others from using the water.

**private water.** Nonnavigable water owned and controlled by one or more individuals and not subject to public use. • If a body of water is small and of little or no practical value for general public use, it is considered private.

**public water.** Water adapted for purposes of navigation or public access.

**subterranean water.** Water that lies or flows beneath the earth's surface and that is not artificially confined. [Cases: Waters and Water Courses 99. C.J.S. Waters §§ 190–192.]



surface water. Water lying on the surface of the earth but not forming part of a watercourse or lake. • Surface water most commonly derives from rain, springs, or melting snow.

surplus water. 1. Water running off irrigated ground; water not consumed by the irrigation process. 2. See excess water.

territorial waters. The waters under a state's or nation's jurisdiction, including both inland waters and surrounding sea (traditionally within three miles of the coastline). — Also termed marine belt; maritime belt.

tidewater. See TIDEWATER.

wastewater. 1. Water that escapes from the canals, ditches, or other receptacles of the lawful claimant; water that is not used by the appropriator and is permitted to run off the appropriator's property. 2. Water that is left over, esp. after a chemical or manufacturing process.

#### WATER BAYLEY

water bayley (bay-lee). Hist. An officer (mentioned in the colony laws of New Plymouth in A.D. 1671) who primarily collects dues for fish taken out of the colony's waters.

#### WATERCOURSE

watercourse. A body of water, usu. of natural origin, flowing in a reasonably definite channel with bed and banks. • The term includes not just rivers and creeks, but also springs, lakes, and marshes in which such flowing streams originate or through which they flow. — Also termed waterway. [Cases: Waters and Water Courses 38. C.J.S. Waters §§ 3–8, 91.]

“Once water joins a watercourse it becomes subject to state control; in appropriation states it becomes available for appropriation to private uses according to state law .... [A] watercourse could be defined to include not only rivers and lakes, but every tiny brook flowing into them, all the gullies through which water flows to the brooks, the snowpack and rainfall that feed them, and the evaporating or transpiring water in the process of forming clouds. But we need not require scientists to trace water to such remote sources because it would be beyond the ability of governments to regulate these sources. Legal definitions are intended to define a point beyond which a state does not regulate water use. Usually that point is when water is not in a ‘natural stream’.” David H. Getches, *Water Law in a Nutshell* 106–07 (3d ed. 1997).

ancient watercourse. A watercourse in a channel that has existed from time immemorial.

artificial watercourse. A man-made watercourse, usu. to be used only temporarily. • If the watercourse is of a permanent character and has been maintained for a sufficient length of time, it may be considered a natural watercourse to which riparian rights can attach. [Cases: Waters and Water Courses 168. C.J.S. Waters §§ 297–304.]

“An artificial waterway or stream may, under some circumstances, have the characteristics and incidents of a natural watercourse. In determining the question, three things seem generally to be taken into consideration by the courts: (1) whether the way or stream is temporary or permanent; (2) the circumstances under which it was created; and (3) the mode in which it has

been used and enjoyed.” 78 Am. Jur. 2d Waters § 196, at 644 (1975).

natural watercourse. A watercourse with its origin in the forces of nature. • A natural watercourse does not include surface water, which often flows intermittently and in an indefinite channel. In addition, a natural stream is distinguished from an artificial ditch or canal, which is typically not the subject of riparian rights. See RIPARIAN RIGHT; WATER. [Cases: Waters and Water Courses 38. C.J.S. Waters §§ 3–8, 91.]

#### WATER DISTRICT

water district. See DISTRICT.

#### WATERED STOCK

watered stock. See STOCK.

#### WATERFRONT

waterfront, n. Land or land with buildings fronting a body of water.

#### WATERGAGE

watergage, n. 1. A seawall. 2. An instrument used to measure water.

#### WATERGAVEL

watergavel, n. Hist. A fee paid for a benefit (such as fishing) obtained from a body of water.

#### WATERMARK

watermark. 1. A mark indicating the highest or lowest point to which water rises or falls.

high-water mark. 1. The shoreline of a sea reached by the water at high tide. • The high-water mark is usu. computed as a mean or average high tide and not as the extreme height of the water. 2. In a freshwater lake created by a dam in an unnavigable stream, the highest point on the shore to which the dam can raise the water in ordinary circumstances. 3. In a river not subject to tides, the line that the river impresses on the soil by covering it long enough to deprive it of agricultural value. — Also termed high-water line.

low-water mark. 1. The shoreline of a sea marking the edge of the water at the lowest point of the ordinary ebb tide. 2. In a river, the point to which the water recedes at its lowest stage.

2. The transparent design or symbol seen when paper is held up to the light, usu. to indicate the genuineness of the document or the document's manufacturer.

#### WATER ORDEAL

water ordeal. See ordeal by water under ORDEAL.

#### WATERPOWER

waterpower. 1. The force obtained by converting water into energy. 2. The riparian owner's right consisting of the fall in the stream as it passes over or through the riparian owner's land; the

difference of the level between the surface where the stream first touches one's land and the surface where the water leaves the land. [Cases: Waters and Water Courses 42. C.J.S. Waters §§ 12–14, 20.]

#### WATER RIGHT

water right.(often pl.) The right to use water from a natural stream or from an artificial canal for irrigation, power, domestic use, and the like; RIPARIAN RIGHT. — Also termed aquatic right. [Cases: Navigable Waters 39; Waters and Water Courses 40–47, 141, 168. C.J.S. Navigable Waters § 82; Waters §§ 12–14, 20, 297–304, 370–375, 760–761, 926.]

#### WATERSCAPE

waterscape, n. An aqueduct or passage for water.

#### WATERWAY

waterway. See WATERCOURSE.

#### WAVESON

waveson (wayv-s<<schwa>>n), n. Hist. Goods that float on the sea after a shipwreck. Cf. FLOTSAM; JETSAM; LAGAN(1).

#### WAX SCOT

wax scot (wak skot), n. [fr. Old English sceotan “contribution, tax”] Hist. A duty on wax candles used in churches, usu. paid twice a year. — Also termed cerage (seer-ij); ceratium (si-ray-shee-<<schwa>>m).

#### WAY

way. 1. A passage or path. 2. A right to travel over another's property. See RIGHT-OF-WAY. [Cases: Easements 1. C.J.S. Easements §§ 2–8, 13–14, 21–22, 24, 53–55, 57–58, 89.]

private way. 1. The right to pass over another's land. [Cases: Easements 1. C.J.S. Easements §§ 2–8, 13–14, 21–22, 24, 53–55, 57–58, 89.] 2. A way provided by local authorities primarily to accommodate particular individuals (usu. at the individual's expense) but also for the public's passage. [Cases: Private Roads 1. C.J.S. Private Roads § 2; Private Roads §§ 2–3, 19.]

way of necessity. See implied easement under EASEMENT.

#### WAYBILL

waybill. Maritime law. A document acknowledging the receipt of goods by a carrier or by the shipper's agent and the contract for the transportation of those goods. • Unlike a bill of lading, a waybill is not a document of title and is nonnegotiable. — Abbr. WB. Cf. BILL OF LADING.

air waybill. A waybill for goods shipped by air. Cf. overseas bill of lading under BILL OF LADING.

#### WAY-GOING CROP

way-going crop. A grain crop, formerly sown by a tenant during a tenancy (esp. in Pennsylvania), that did not ripen until after expiration of the lease. • In the absence of an express agreement to the contrary, the tenant was entitled to the crop. [Cases: Landlord and Tenant 139(2). C.J.S. Landlord and Tenant § 349.]

**WAY-LEAVE**

way-leave, n. 1. A right-of-way (usu. created by an express grant) over or through land for the transportation of minerals from a mine or quarry. 2. The royalty paid for such a right.

**WAYNAGIUM**

waynagium (way-nay-jee-<<schwa>>m). See WAINAGE.

**WAY OF NECESSITY****WAYS-AND-MEANS COMMITTEE**

ways-and-means committee. A legislative committee that determines how money will be raised for various governmental purposes. [Cases: United States 23. C.J.S. United States § 39.]

**WB**

WB.abbr. WAYBILL.

**WC**

WC.abbr. WORKERS' COMPENSATION.

**WCT**

WCT.abbr. WIPO COPYRIGHT TREATY.

**W.D.**

W.D.abbr. Western District, in reference to U.S. judicial districts.

**WEAK MARK**

weak mark. See descriptive trademark under TRADEMARK.

**WEAK TRADEMARK**

weak trademark. See descriptive trademark under TRADEMARK.

**WEALREAF**

wealreif (weel-reef), n. Archaic. The robbery of a dead person in a grave.

**WEALTH**

wealth. 1. A large quantity of something. 2. The state of having abundant financial resources; affluence.

**WEALTH MAXIMIZATION**

wealth maximization.A situation resulting from a change in the allocation of resources if the change benefits the winner — i.e., the one who benefits from the change — more than it harms the loser. • A situation in which all possible wealth-maximizing changes have occurred is described as Kaldor-Hicks efficient or as being potentially Pareto superior. See PARETO OPTIMALITY; PARETO SUPERIORITY.

#### WEAPON

weapon. An instrument used or designed to be used to injure or kill someone. [Cases: Weapons 8. C.J.S. Weapons §§ 13–15.]

concealed weapon.A weapon that is carried by a person but that is not visible by ordinary observation. [Cases: Weapons 10. C.J.S. Weapons §§ 18–21.]

dangerous weapon.An object or device that, because of the way it is used, is capable of causing serious bodily injury. [Cases: Weapons 8. C.J.S. Weapons §§ 13–15.]

deadly weapon.Any firearm or other device, instrument, material, or substance that, from the manner in which it is used or is intended to be used, is calculated or likely to produce death. • In some states, the definition encompasses the likelihood of causing either death or serious physical injury. — Also termed lethal weapon. Cf. DANGEROUS INSTRUMENTALITY. [Cases: Assault and Battery 56. C.J.S. Assault and Battery §§ 77–79.]

deadly weapon per se.A weapon that is deadly in and of itself or would ordinarily result in death by its use <a gun is a deadly weapon per se>. — Also termed per se deadly weapon. [Cases: Assault and Battery 56. C.J.S. Assault and Battery §§ 77–79.]

lethal weapon.See deadly weapon.

weapon of mass destruction.(usu. pl.) A weapon that is intended to kill human beings, without discriminating between combatants and noncombatants, on a massive scale. • Among the most frequently cited examples are nuclear weapons and chemical weapons. — Abbr. WMD.

#### WEAR

wear,n.[fr. Saxon were “a taking”] Hist. A dam made of stakes interlaced by twigs of willows that are placed across a river to more easily accommodate the netting of fish. — Also termed weir.

#### WEAR AND TEAR

wear and tear.Deterioration caused by ordinary use; the depreciation of property resulting from its reasonable use <the tenant is not liable for normal wear and tear to the leased premises>. — Also termed fair wear and tear; natural wear and tear. [Cases: Landlord and Tenant 55. C.J.S. Landlord and Tenant § 260.]

“ ‘Fair wear’ is the deterioration caused by the reasonable use of the premises; ‘fair tear’ is the deterioration caused by the ordinary operation of natural forces. A tenant's repairing covenant commonly exempts the tenant from the obligation to repair damage characterisable as ‘fair wear and tear’ (sometimes called ‘reasonable wear and tear’). In the absence of such an exempting

provision, a covenant to repair requires the repairing of damage characterisable as fair wear and tear. Where a covenant to repair exempts the tenant from liability for 'fair wear and tear', he is not responsible for deterioration or dilapidation caused by 'the reasonable use of the house by the tenant and the ordinary operation of natural forces.' ” Peter Butt, *Land Law* 256 (2d ed. 1988).

#### WEBB-POMERENE ACT

Webb-Pomerene Act. A federal law, originally enacted in 1918, that provides a qualified exemption for an export business against the prohibitions of the antitrust laws. 15 USCA §§ 61 et seq.

“The Webb-Pomerene Act was passed to aid and encourage our manufacturers and producers to extend our foreign trade. Congress believed that American firms needed the power to form joint export associations in order to compete with foreign cartels, but while Congress was willing to create an exemption from the antitrust laws to serve this narrow purpose, the exemption created by the Webb-Pomerene Act was carefully hedged in to avoid substantial injury to domestic interests. Organization under the Webb-Pomerene Act does not give an export association the right to agree with foreign competitors to fix prices ... or establish exclusive markets ....” 54 Am. Jur. 2d *Monopolies and Restraints of Trade* § 262, at 298 (1996).

#### WEBSITE-USER AGREEMENT

website-user agreement. See POINT-AND-CLICK AGREEMENT.

#### WEB-WRAP AGREEMENT

web-wrap agreement. See POINT-AND-CLICK AGREEMENT.

#### WEDDING

wedding. See MARRIAGE CEREMONY.

#### WEDGE PRINCIPLE

wedge principle. The principle that an act is wrong in a specific instance if, when raised to a general level of conduct, it would injure humanity.

“[T]here is the familiar argument from the 'wedge principle,' which is used to deny the possibility of looking at particular circumstances in applying moral rules.” Glanville Williams, *The Sanctity of Life and the Criminal Law* 315 (1957).

#### WEDLOCK

wedlock. The state of being married; matrimony.

#### WEEK

week. 1. A period of seven consecutive days beginning on either Sunday or Monday. 2. Any consecutive seven-day period. [Cases: Time 6. C.J.S. Time § 7.]

#### WEEKEND SENTENCE

weekend sentence. See intermittent sentence under SENTENCE.

#### WEEK-WORK

week-work. Hist. In feudal times, the obligation of a tenant to work two to four days in every week for his lord during the greater part of the year, and four or five during the summer months. See VILLEIN SERVICE.

#### WEHADING

wehading. See TRIAL BY COMBAT.

#### WEIGHAGE

weighage (way-ij). A duty or other payment required in return for weighing merchandise.

#### WEIGHT

weight. A measure of heaviness; a measure of the quantity of matter. [Cases: Weights and Measures 3. C.J.S. Weights and Measures § 3.]

gross weight. The total weight of a thing, including its contents and any packaging.

net weight. The total weight of a thing, after deducting its container, its wrapping, and any other extraneous matter. — Sometimes shortened to net. — Also termed neat weight.

#### WEIGHTED VOTE

weighted vote. See VOTE(1).

#### WEIGHT OF THE EVIDENCE

weight of the evidence. The persuasiveness of some evidence in comparison with other evidence <because the verdict is against the great weight of the evidence, a new trial should be granted>. See BURDEN OF PERSUASION. Cf. PREPONDERANCE OF THE EVIDENCE. [Cases: Criminal Law 549; Evidence 584. C.J.S. Criminal Law §§ 655, 1094–1095, 1097, 1102; Evidence §§ 729, 1301–1305, 1320, 1324, 1326–1327, 1342, 1345.]

manifest weight of the evidence. See MANIFEST WEIGHT OF THE EVIDENCE.

#### WEINGARTEN<TT> RIGHT

Weingarten right. Labor law. A union member's right to have a union representative present during an employment meeting that the member reasonably believes will result in disciplinary action. *NLRB v. J. Weingarten, Inc.*, 420 U.S. 251, 95 S.Ct. 959 (1975). • In July 2000, the NLRB extended Weingarten rights to nonunion employees.

#### WEIR

weir. See WEAR.

#### WELCHING

welching. See WELSHING.

## WELFARE

welfare. 1. Well-being in any respect; prosperity.

general welfare. The public's health, peace, morals, and safety.

public welfare. A society's well-being in matters of health, safety, order, morality, economics, and politics.

2. A system of social insurance providing assistance to those who are financially in need, as by providing food stamps and family allowances. — Also termed (historically) poor relief. [Cases: Agriculture 2.6; Social Security and Public Welfare 4. C.J.S. Agriculture §§ 27–29; Social Security and Public Welfare §§ 6, 10, 17.]

corporate welfare. Governmental financial assistance given to a large company, usu. in the form of a subsidy.

## WELFARE CLAUSE

Welfare Clause. See GENERAL WELFARE CLAUSE.

## WELFARE PLAN

welfare plan. See EMPLOYEE BENEFIT PLAN.

## WELFARE REFORM ACT

Welfare Reform Act. See PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT.

## WELFARE STATE

welfare state. A nation in which the government undertakes various social insurance programs, such as unemployment compensation, old-age pensions, family allowances, food stamps, and aid to the blind or deaf. — Also termed welfare-regulatory state.

## WELL

well, adj. Marine insurance. (Of a vessel) in good condition; safe and sound < the vessel was warranted well on January 1 >.

well, adv. In a legally sufficient manner; unobjectionable < well-pleaded complaint >.

well, n. A hole or shaft sunk into the earth to obtain a fluid, such as water, oil, or natural gas.

limited-capacity well. An oil or gas well that is limited to producing only a portion of its monthly allowable because of market demand.

stripper well. An oil or gas well that produces only small quantities. • In some states, such as Kansas and Illinois, stripper wells are common.



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**WELL-COMPLETION CLAUSE**

well-completion clause.Oil & gas. A provision in an oil-and-gas lease specifying that a lessee who starts drilling before the lease terminates has the right to complete the well and to maintain the lease if the drilling achieves production. See OPERATIONS CLAUSE.

**WELL-KNOWING**

well-knowing,adj. Intentional <a well-knowing act or omission>. • This term was formerly used in a pleading to allege scienter. See SCIENTER.

**WELL-PLEADED COMPLAINT**

well-pleaded complaint.See COMPLAINT.

**WELSHING**

welshing. 1. The act or an instance of evading an obligation, esp. a gambling debt. 2. The common-law act of larceny in which one receives a deposit to be paid back with additional money depending on the outcome of an event (such as a horse race) but at the time of the deposit the depositee intends to cheat and defraud the depositor by absconding with the money. • Although this term is sometimes thought to be a slur against those hailing from Wales, etymologists have not been able to establish this connection. Authoritative dictionaries record the origin of the term as being unknown. — Also termed welching. — welsh,vb. — welsher,n.

**WELSH MORTGAGE**

Welsh mortgage.See MORTGAGE.

**WEND**

wend,n. Hist. A large section of land; a perambulation; a circuit.

**WER**

wer. See BLOOD MONEY(1).

**WERGILD**

wergild (w<<schwa>>r-gild).Hist. The fixed value of a person's life, being the amount that a homicide's kindred must pay to the kindred of the slain person so as to avoid a blood feud. — Also spelled wergeld; weregild; wehrgeld. See EFFUSIO SANGUINIS; LEODES.

**WEST AUSTRALIAN PLAN**

West Australian plan.See instant-runoff voting under VOTING.

**WESTLAW**

Westlaw. A West database for computer-assisted legal research, providing online access to legal resources, including federal and state caselaw, statutes, regulations, and legal periodicals. — Abbr. WL.

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**WESTMINSTER CONFSSION OF FAITH**

Westminster Confession of Faith (west-min-st<<schwa>>r).Hist. A document containing a statement of the religious doctrines of the Presbyterian Church, originating at a conference of British and continental Protestant divines at Westminster in 1643. • It was adopted by the General Assembly of the Kirk of Scotland and the Scottish Parliament, so becoming the basis of the Scottish Presbyterian Church. — Sometimes shortened to Westminster Confession.

**WESTMINSTER THE FIRST, STATUTE OF**

Westminster the First, Statute of.Hist. An English statute divided into 51 chapters (later correlating to separate acts of Parliament), including provisions (1) protecting the property of the church from the violence and spoliation of the Crown and nobles; (2) providing for the freedom of popular elections; (3) enforcing the rules contained in Magna Carta against excessive fines; (4) enumerating and correcting the abuses of tenures (esp. concerning marriages of wards); (5) regulating the levying of tolls; (6) correcting and restraining the powers of the royal escheator and other officers; (7) amending the criminal law (esp. by classifying rape as a most grievous, though not capital, offense); and (8) making criminal and civil procedures more expeditious and less costly. 3 Edw. (1275).

**WEST POINT**

West Point.See UNITED STATES MILITARY ACADEMY.

**WEST-SAXON LAW**

West-Saxon law.Hist. A system of rules introduced by the West Saxons and one of the three principal legal systems prevailing in England in the beginning of the 11th century. • It was observed primarily in southern English counties from Kent to Devonshire. — Also termed West-Saxon lage. See MERCENLAGE; DANELAW.

**WHARF**

wharf. A structure on the shores of navigable waters, to which a vessel can be brought for loading or unloading. [Cases: Wharves 4. C.J.S. Wharves §§ 1–2, 4–5.]

private wharf.One that can be used only by its owner or lessee. [Cases: Wharves 4. C.J.S. Wharves §§ 1–2, 4–5.]

public wharf.One that can be used by the public. [Cases: Wharves 4. C.J.S. Wharves §§ 1–2, 4–5.]

**WHARFAGE**

wharfage (worf-ij), n. Hist. 1.The fee paid for landing, loading, or unloading goods on a wharf. [Cases: Wharves 15. C.J.S. Wharves §§ 3, 6, 22.] 2. The accommodation for loading or unloading goods on a wharf.

**WHARFINGER**

wharfinger (wor-fin-j<<schwa>>r), n. Hist. The owner or occupier of a wharf; one who keeps a wharf to receive merchandise for forwarding or delivery to a consignee. [Cases: Wharves 20(1).]

#### WHARFING OUT, RIGHT OF

wharfing out, right of. See RIGHT OF WHARFING OUT.

#### WHARTON'S RULE

Wharton's rule ([h]wor-t<<schwa>>n). Criminal law. The doctrine that an agreement by two or more persons to commit a particular crime cannot be prosecuted as a conspiracy if the crime could not be committed except by the actual number of participants involved. • But if an additional person participates so as to enlarge the scope of the agreement, all the actors may be charged with conspiracy. The doctrine takes its name from the influential criminal-law author Francis Wharton (1820–1889). — Also termed Wharton rule; concert-of-action rule. [Cases: Conspiracy 28(1). C.J.S. Conspiracy §§ 209, 213–214.]

“Wharton's Rule applies only to offenses that require concerted criminal activity, a plurality of criminal agents. In such cases, a closer relationship exists between the conspiracy and the substantive offense because both require collective criminal activity. The substantive offense therefore presents some of the same threats that the law of conspiracy normally is thought to guard against, and it cannot automatically be assumed that the Legislature intended the conspiracy and the substantive offense to remain as discrete crimes upon consummation of the latter. Thus, absent legislative intent to the contrary, the Rule supports a presumption that the two merge when the substantive offense is proved.... More important, as the Rule is essentially an aid to the determination of legislative intent, it must defer to a discernible legislative judgment.” *Iannelli v. United States*, 420 U.S. 770, 785–86, 95 S.Ct. 1284, 1293–94 (1975).

#### WHD

WHD.abbr.WAGE AND HOUR DIVISION.

#### WHEEL

wheel.Hist. 1. An instrument of torture used in medieval Europe, consisting of a wheel or cross on which a criminal was bound with arms and legs extended, while the criminal's bones were broken one by one with an iron bar, usu. until death. 2. The torture itself.

#### WHEELAGE

wheelage ([h]weel-ij), n. Hist. A duty or toll for a vehicle to pass over certain property.

#### WHEEL CONSPIRACY

wheel conspiracy. See CONSPIRACY.

#### WHEN-ISSUED SECURITY

when-issued security. See SECURITY.

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**WHEREABOUTS**

whereabouts,n. The general locale where a person or thing is <her whereabouts are unknown> <the Joneses' present whereabouts is a closely guarded secret>. • As the examples illustrate, this noun, though plural in form, may be construed with either a plural or a singular verb. — whereabouts,adv. & conj.

**WHEREAS**

whereas,conj. 1. While by contrast; although <McWilliams was stopped at 10:08 p.m. wearing a green hat, whereas the assailant had been identified at 10:04 p.m. wearing a black hat>.2. Given the fact that; since <Whereas, the parties have found that their 1994 agreement did not adequately address incidental expenses ...; and Whereas, the parties have now decided in an equitable sharing of those expenses ...; Now, Therefore, the parties agree to amend the 1994 agreement as follows ...>. • In sense 2, whereas is used to introduce contractual recitals and the like, but modern drafters increasingly prefer a simple heading, such as “Recitals” or “Preamble,” and in that way avoid the legalistic whereases. — whereas (recital or preamble), n.

**WHEREAS CLAUSE**

whereas clause.1.PREAMBLE(1).2.RECITAL(2).

**WHEREAT**

whereat,conj.1. At or toward which <the point whereat he was aiming>.2. As a result of which; whereupon <Pettrucione called Bickley a scurrilous name, whereat a fistfight broke out>.

**WHEREBY**

whereby,conj. By which; through which; in accordance with which <the treaty whereby the warring nations finally achieved peace>.

**WHEREFORE, PREMISES CONSIDERED**

wherefore, premises considered.For all these reasons; for the reason or reasons mentioned above.

**WHEREFROM**

wherefrom,conj. From which <the students sent two faxes to the president's office, wherefrom no reply ever came>.

**WHEREIN**

wherein,conj. 1. In which; where <the jurisdiction wherein Lynn practices>.2. During which <they listened intently at the concert, wherein both of them became convinced that the composer's “new” work was a fraud>.3. How; in what respect <Fallon demanded to know wherein she had breached any duty>. — wherein,adv.

**WHEREOF**

whereof,conj. 1. Of what <Judge Wald knows whereof she speaks>.2. Of which < citations whereof even the most responsible are far afield from the true issue>.3. Of whom <judges whereof only the most glowing words might be said>.

#### WHEREON

whereon,conj. On which <the foundation whereon counsel bases this argument>. — Also termed whereupon.

#### WERETO

wereto,conj. To what place or time <at first, Campbell did not know wereto he was being taken>. — Also termed whereunto. — wereto,adv.

#### WHEREUPON

whereupon,conj. 1.WHEREON <the precedent whereupon the defense bases its argument>.2. Soon after and as a result of which; and then <a not-guilty verdict was announced, whereupon a riot erupted>.

#### WEREWITH

werewith,conj. By means of which <the plaintiff lacked a form of action werewith to state a compensable claim>.

#### WHIM

whim. A passing fancy; an impulse <the jury was instructed to render a verdict based solely on the evidence, not on a whim>.

#### WHIPPING

whipping,n. A method of corporal punishment formerly used in England and a few American states, consisting of inflicting long welts on the skin, esp. with a whip.

#### WHIPSAW STRIKE

whipsaw strike.See STRIKE.

#### WHISPER STOCK

whisper stock.See STOCK.

#### WHISTLEBLOWER

whistleblower,n. An employee who reports employer wrongdoing to a governmental or law-enforcement agency. • Federal and state laws protect whistleblowers from employer retaliation. [Cases: Master and Servant 30(6.35); Officers and Public Employees 66. C.J.S. Employer–Employee Relationship §§ 69, 78; Of-ficers and Public Employees §§ 121, 150–158.] — whistleblowing,n.

#### WHISTLEBLOWER ACT

whistleblower act. A federal or state law protecting employees from retaliation for disclosing employer wrong-doing, as during an investigation by a regulatory agency. • Federal laws containing whistleblower provisions include the Whistleblower Protection Act (5 USCA § 1211), the Occupational Safety and Health Act (29 USCA § 660), CERCLA (42 USCA § 9610), and the Air Pollution and Control Act (42 USCA § 7622). [Cases: Master and Servant 30(6.35); Officers and Public Employees 69.7. C.J.S. Employer–Employee Relationship §§ 69, 78; Officers and Public Employees §§ 133, 164–166.]

#### WHITEACRE

Whiteacre. A fictitious tract of land used in legal discourse (esp. law-school hypotheticals) to discuss real-property issues. See BLACKACRE.

#### WHITE BONNET

white bonnet. Scots law. A fictitious bidder at an auction; a shill.

#### WHITE BOOK

white book. 1. Hist. (cap.) ALBUS LIBER. 2. A government report bound in white, common esp. in European and papal affairs.

#### WHITECAPPING

whitecapping. Criminal law. The criminal act of threatening a person — usu. a member of a minority group — with violence in an effort to compel the person either to move away or to stop engaging in a certain business or occupation. • Whitecapping statutes were originally enacted to curtail the activities of the Ku Klux Klan. [Cases: Extortion and Threats 25.1. C.J.S. Threats and Unlawful Communications §§ 2–20.]

#### WHITE-COLLAR CRIME

white-collar crime. A nonviolent crime usu. involving cheating or dishonesty in commercial matters. • Examples include fraud, embezzlement, bribery, and insider trading.

#### WHITEHORSE CASE

whitehorse case. Slang. A reported case with facts virtually identical to those of the instant case, so that the disposition of the reported case should determine the outcome of the instant case. — Also termed horse case; goose case; gray mule case. Cf. ON ALL FOURS.

#### WHITE KNIGHT

white knight. A person or corporation that rescues the target of an unfriendly corporate takeover, esp. by acquiring a controlling interest in the target corporation or by making a competing tender offer. — Also termed friendly suitor. See TAKEOVER. Cf. CORPORATE RAIDER.

#### WHITELEY RULE

Whiteley rule. See FELLOW-OFFICER RULE.

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**WHITE MODEL**

**White model.**Labor law. A method for determining whether a union member's state-law claim against the employer is preempted by federal law, by focusing on whether state law permits the claim to be waived by a private contract. • In *Lingle v. Norge Division of Magic Chef, Inc.*, 486 U.S. 399, 108 S.Ct. 1877 (1988), the Supreme Court held that a union member's state-law retaliatory-discharge claim was not preempted by the Labor-Management Relations Act because the claim could be resolved without interpreting the collective-bargaining agreement. There are at least two models for applying the Lingle test: the White model, which focuses on whether the claim is negotiable or nonnegotiable (that is, whether state law allows the claim to be waived by a private contract) and the Marcus model, which focuses on the independence of the claim in relation to the collective-bargaining agreement. Under the White model, all negotiable claims (those waivable by private contract) are necessarily preempted because their resolution will require an interpretation of the collective-bargaining agreement. A nonnegotiable claims (one that state law does not permit to be waived by private contract) will be preempted only if its resolution requires an interpretation of the collective-bargaining agreement. The White model is named for the author of the law-review article in which it was proposed. Rebecca Homer White, Section 301's Preemption of State Law Claims: A Model for Analysis, 41 Ala. L. Rev. 377 (1990). See **LINGLE TEST**. Cf. **MARCUS MODEL**.

**WHITE RENT**

**white rent.**Hist. A feudal rent paid in silver, rather than in work, grain, or money baser than silver. Cf. **BLACK RENT**.

**WHITE SLAVERY**

**white slavery.**The practice of forcing a female (or, rarely, a male) to engage in commercial prostitution. • Trafficking in white slavery is prohibited by the Mann Act (18 USCA §§ 2421–2424). [Cases: Prostitution 1.C.J.S. Prostitution and Related Offenses §§ 2–4, 8–13, 17, 21–24.]

**WHITE SLAVE TRAFFIC ACT**

**White Slave Traffic Act.**See **MANN ACT**.

**WHITSUNDAY**

**Whitsunday.** See quarter day under **DAY**.

**WHOLE BLOOD**

**whole blood.**See full blood under **BLOOD**.

**WHOLE LAW**

**whole law.**The law applied by a forum court in a multistate or multinational case after referring to its own choice-of-law rules. [Cases: Action 17. C.J.S. Actions §§ 18–20; Conflict of Laws §§ 2–3, 12, 15, 20, 23, 27–32, 34–40, 42–48, 50–65, 96–97, 100, 102, 105–107.]

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**WHOLE LIFE INSURANCE**

whole life insurance. See LIFE INSURANCE.

**WHOLESALE**

wholesale, n. The sale of goods or commodities usu. to a retailer for resale, and not to the ultimate consumer. Cf. RETAIL. — wholesale, vb. — wholesale, adj.

**WHOLESALE DEALER**

wholesale dealer. One who sells goods in gross to retail dealers rather than selling in smaller quantities directly to consumers.

**WHOLESALE PRICE**

wholesale price. See PRICE.

**WHOLESALE PRICE INDEX**

wholesale price index. See PRODUCER PRICE INDEX.

**WHOLESALER**

wholesaler. One who buys large quantities of goods and resells them in smaller quantities to retailers or other merchants, who in turn sell to the ultimate consumer.

**WHOLE-STATUTE RULE**

whole-statute rule. The principle of statutory construction that a statute should be considered in its entirety, and that the words used within it should be given their ordinary meanings unless there is a clear indication to the contrary. [Cases: Statutes 188, 205. C.J.S. Statutes §§ 321, 324–326, 330, 334.]

**WHOLLY**

wholly, adv. Not partially; fully; completely.

**WHOLLY AND PERMANENTLY DISABLED**

wholly and permanently disabled, adj. Insurance. (Of an insured) completely and continuously unable to perform work for compensation or profit. [Cases: Insurance 2035, 2553. C.J.S. Insurance §§ 452–453, 556, 732–733, 773, 817, 832–833.]

**WHOLLY DEPENDENT**

wholly dependent, adj. Workers' compensation. (Of a person) deriving full support from a worker's wages. [Cases: Workers' Compensation 412–486. C.J.S. Workmen's Compensation §§ 250–280.]

**WHOLLY DESTROYED**

wholly destroyed, adj. Insurance. (Of a building) so damaged that it is no longer capable of



being classified as a building, although some parts may remain intact. [Cases: Insurance 2171. C.J.S. Insurance §§ 1108–1109, 1204.]

#### WHOLLY DISABLED

wholly disabled,adj. Insurance. (Of a person) unable to perform the substantial and material acts necessary to carry on a business or occupation in the customary and usual manner. [Cases: Insurance 2561. C.J.S. Insurance §§ 1089, 1187, 1189.]

#### WHOREHOUSE

whorehouse. See BROTHEL.

#### WIDOW

widow,n. A woman whose husband has died and who has not remarried. [Cases: Death 31(6); Descent and Distribution 52(1); Dower and Curtesy 1–118; Executors and Administrators 180. C.J.S. Death §§ 49, 108; Descent and Distribution §§ 60–62, 64; Dower §§ 2–170; Executors and Administrators §§ 357–359, 374.]

#### WIDOWER

widower,n. A man whose wife has died and who has not remarried.

#### WIDOWER'S ALLOWANCE

widower's allowance.See spousal allowance under ALLOWANCE(1).

#### WIDOW'S ALLOWANCE

widow's allowance.See spousal allowance under ALLOWANCE(1).

#### WIDOW'S ELECTION

widow's election.See RIGHT OF ELECTION.

#### WIFA

wifa (wI-f<<schwa>>), n.[Old English] Hist. A mark or sign; esp., a landmark showing exclusive occupation or to prohibit an entry.

#### WIFE

wife. A married woman; a woman who has a lawful husband living.

common-law wife. 1. The wife in a common-law marriage; a woman who contracts an informal marriage with a man and then holds herself out to the community as being married to him. See common-law marriage under MARRIAGE(1).2.Archaic. Loosely, a concubine.

plural wife.One of two or more women married simultaneously to the same man in a polygamous marriage.

#### WIFE BEATING

wife beating. See spousal abuse under ABUSE.

#### WIFE'S EQUITY

wife's equity. See EQUITY TO A SETTLEMENT.

#### WIFE'S SETTLEMENT

wife's settlement. See EQUITY TO A SETTLEMENT.

#### WILD ANIMAL

wild animal. See ANIMAL.

#### WILDCAT STRIKE

wildcat strike. See STRIKE.

#### WILD CREATURE

wild creature. See wild animal under CREATURE.

#### WILD DEED

wild deed. See DEED.

#### WILD'S CASE, RULE IN

Wild's Case, Rule in. See RULE IN WILD'S CASE.

#### WILFUL

wilful. See WILLFUL.

#### WILL

will, n. 1. Wish; desire; choice <employment at will>. 2. A document by which a person directs his or her estate to be distributed upon death <there was no mention of his estranged brother in the will>. — Also termed testament; will and testament; (archaically) testamentary instrument. [Cases: Wills 1–202. C.J.S. Conflict of Laws §§ 72, 89; Indians § 117; Wills §§ 1–51, 53–87, 93–95, 97–99, 103–104, 106–444, 796–797, 1621, 2026–2062.] — will, vb.

“The word ‘will’ has two distinct meanings. The first, and strict, meaning is metaphysical, and denotes the sum of what the testator wishes, or ‘wills,’ to happen on his death. The second, and more common, meaning is physical, and denotes the document or documents in which that intention is expressed.” Anthony R. Mellows, *The Law of Succession* 6 (3d ed. 1977).

ambulatory will. A will that can be altered during the testator's lifetime. [Cases: Wills 78. C.J.S. Wills § 167.]

antenuptial will. See prenuptial will.

attested will. A will that has been signed by a witness.

bogus will. An unauthentic will, esp. one involving fraud or unauthorized changes.

closed will. See mystic will.

conditional will. A will that depends on the occurrence of an uncertain event for the will to take effect. • Most jurisdictions hold a conditional will valid even though the testator's death does not result from or on the occasion of the condition mentioned in the will. The courts generally hold that the condition is the inducement for making the will rather than a condition precedent to its operation. See *Eaton v. Brown*, 193 U.S. 411, 24 S.Ct. 487 (1904); *In re Will of Cohen*, 491 A.2d 1292 (N.J. Super. Ct. App. Div. 1985). Cf. contingent will. [Cases: Wills 80. C.J.S. Wills §§ 197–198.]

conjoint will. See joint will.

contingent will. A will that takes effect only if a specified event occurs. Cf. conditional will. [Cases: Wills 80. C.J.S. Wills §§ 197–198.]

counter will. See mutual will.

double will. See mutual will.

duplicate will. A will executed in duplicate originals by a testator who retains one copy and gives the second copy to another person. • The rules applicable to wills apply to both wills, and upon application for probate, both copies must be tendered into the registry of the probate court. [Cases: Wills 175. C.J.S. Wills §§ 395, 412.]

holographic will (hol-<<schwa>>-graf-ik). A will that is handwritten by the testator. • Such a will is typically unattested. Holographic wills are rooted in the civil-law tradition, having originated in Roman law and having been authorized under the Napoleonic Code. French and Spanish settlers introduced holographic wills in America, primarily in the South and West. Today they are recognized in about half the states. — Also termed olographic will. See HOLOGRAPH. [Cases: Wills 130–135. C.J.S. Wills §§ 317–327, 339, 341.]

inofficious will. See inofficious testament under TESTAMENT.

international will. A will that is executed according to formalities provided in an international treaty or convention, and that will be valid although it may be written in a foreign language by a testator domiciled in another country. [Cases: Wills 238–246. C.J.S. Wills §§ 515–523.]

invalid will. A will that fails to make an effective disposition of property.

joint and mutual will. A will executed by two or more people — to dispose of property they own separately, in common, or jointly — requiring the surviving testator to dispose of the property in accordance with the terms of the will, and showing that the devises are made in consideration of one another. • The word “joint” indicates the form of the will. The word “mutual” describes the substantive provisions. — Also termed joint and reciprocal will. [Cases: Wills 56–68, 100. C.J.S. Wills §§ 133–165, 2026–2038, 2047–2062.]

joint and reciprocal will. See joint and mutual will.

**joint will.**A single will executed by two or more testators, usu. disposing of their common property by transferring their separate titles to one devisee. — Also termed conjoint will. [Cases: Wills 56–68, 100. C.J.S. Wills §§ 133–165, 2026–2038, 2047–2062.]

**last will.**The most recent will of a deceased; the instrument ultimately fixing the disposition of real and personal property at the testator's death. — Also termed last will and testament.

“A will is the disposition of real and personal property to take effect after the death of the testator. When the will operates upon personal property, it is sometimes called a testament, and when upon real estate, a devise; but the more general and the more popular denomination of the instrument, embracing equally real and personal estate, is that of last will and testament.” 4 James Kent, *Commentaries on American Law* \*501 (George Comstock ed., 11th ed. 1866).

**last will and testament.**See last will.

**living will.**See LIVING WILL.

**lost will.**An executed will that cannot be found at the testator's death. • Its contents can be proved by parol evidence in many jurisdictions. The common-law presumption — still the view of the overwhelming majority of American jurisdictions — is that there is a presumption of revocation if a lost will is proved to have been in the possession of the testator and has been lost. [Cases: Wills 234, 293(4), 302(8). C.J.S. Wills §§ 511–512, 602, 632–633.]

**mancipatory will (man-sip-i-tor-ee).**Roman law. In early and classical law, a formal will sealed by seven witnesses and submitted to the praetor. See TESTAMENTUM.

**mariner's will.**See soldier's will.

**mutual will.**(usu. pl.) One of two separate wills in which two persons, usu. a husband and wife, establish identical or similar testamentary provisions disposing of their estates in favor of each other. • It is also possible (though rare) for the testators to execute a single mutual will, as opposed to separate ones. And it is possible (though, again, rare) for more than two parties to execute mutual wills. — Also termed reciprocal will; counter will; double will; mutual testament. [Cases: Wills 56–68. C.J.S. Wills §§ 133–165, 2026–2038, 2047–2062.]

**mystic will.**Civil law. A secret will signed by the testator, sealed and delivered to a notary in the presence of three to seven witnesses, accompanied by the testator's declaration that it is a valid will. • The notary is then required to indorse on the envelope containing the will a statement of all the facts surrounding the transaction, and this is signed by the notary and all the witnesses. — Also termed mystic testament; secret will; secret testament; closed will; closed testament; sealed will; sealed testament. [Cases: Wills 124.]

**nonintervention will.**A will that authorizes an independent executor. See independent executor under EX-ECUTOR.

**notarial will.**A will executed by a testator in the presence of two witnesses and a notary public.

**nuncupative will** (n<<schwa>>ng-ky<<schwa>>-pay-tiv or n<<schwa>>ng-kyoo-p<<

schwa>>-tiv). An oral will made in contemplation of imminent death, esp. from a recent injury. • Nuncupative wills are invalid in most states. Even in states allowing them, the amount that may be conveyed is usu. limited by statute. Traditionally, only personal property may be conveyed. — Also termed oral will; unwritten will; verbal will. [Cases: Wills 136–150. C.J.S. Wills §§ 328–338, 340.]

“Nuncupative (i.e., oral) wills are by statute in almost all States required to be proved by two (sometimes three) witnesses, who were present and heard the testamentary words.” John H. Wigmore, *A Students' Textbook of the Law of Evidence* 299 (1935).

olographic will. See holographic will.

oral will. A will made by the spoken declaration of the testator and usu. dependent on oral testimony for proof. Cf. nuncupative will. [Cases: Wills 136–150. C.J.S. Wills §§ 328–338, 340.]

parliamentary will. Slang. The legislation that governs the distribution of an intestate's property. • The term arose because the legislature effectively makes an intestate's will by passing statutes regulating descent and distribution. The terms of the parliamentary will are gathered from the statutes in effect when the intestate died.

postnuptial will (pohst-n<<schwa>>p-sh<<schwa>>l). A will executed after marriage.

pourover will (por-oh-v<<schwa>>r). A will giving money or property to an existing trust. Cf. pourover trust under TRUST.

prenuptial will (pree-n<<schwa>>p-sh<<schwa>>l). A will executed before marriage. • At common law, marriage automatically revoked a spouse's will, but modern statutes usu. provide that marriage does not revoke a will (although divorce does). But if this marriage was not contemplated by the will and there is nothing otherwise on its face to indicate that the testator intentionally left nothing to any future spouse, the pretermitted spouse may be entitled to a special forced share of the estate. Unif. Probate Code § 2-508. — Also termed antenuptial will. [Cases: Wills 60. C.J.S. Wills § 142.]

reciprocal will. See mutual will.

sealed will. See mystic will.

seaman's will. See soldier's will.

secret will. See mystic will.

self-proved will. A will proved by a self-proving affidavit. See self-proving affidavit under AFFIDAVIT. [Cases: Wills 113. C.J.S. Wills §§ 253–255.]

soldier's will. A soldier's informal oral or written will that is usu. valid despite its noncompliance with normal statutory formalities, as long as the soldier was in actual service at the time the will was made. — Also termed seaman's will; mariner's will; military testament; soldier's and sailor's will.

undutiful will.Civil law. See unnatural will.

unnatural will.A will that distributes the testator's estate to strangers rather than to the testator's relatives, without apparent reason. — Also termed (in civil law) undutiful will. [Cases: Wills 82. C.J.S. Wills § 173.]

unofficial will.See inofficial testament under TESTAMENT.

unsolemn will.Civil law. A will in which an executor is not named.

unwritten will.See nuncupative will.

verbal will.See nuncupative will.

#### WILL AND TESTAMENT

will and testament.See WILL.

#### WILL CONTEST

will contest.Wills & estates. The litigation of a will's validity, usu. based on allegations that the testator lacked capacity or was under undue influence. [Cases: Wills 203–434. C.J.S. Wills §§ 52, 445–605, 607–818, 2026–2038, 2057–2062.]

#### WILLFUL

willful,adj. Voluntary and intentional, but not necessarily malicious. — Sometimes spelled wilful. Cf. WANTON. — willfulness,n.

“The word ‘wilful’ or ‘wilfully’ when used in the definition of a crime, it has been said time and again, means only intentionally or purposely as distinguished from accidentally or negligently and does not require any actual impropriety; while on the other hand it has been stated with equal repetition and insistence that the requirement added by such a word is not satisfied unless there is a bad purpose or evil intent.” Rollin M. Perkins & Ronald N. Boyce, *Criminal Law* 875–76 (3d ed. 1982).

“Almost all of the cases under [Bankruptcy Code § 523(a)(6)] deal with the definition of the two words ‘willful’ and ‘malicious.’ Initially one might think that willful and malicious mean the same thing. If they did, Congress should have used one word and not both. Most courts feel compelled to find some different meaning for each of them.” David G. Epstein et al., *Bankruptcy* § 7-30, at 531 (1993).

#### WILLFUL AND MALICIOUS INJURY

willful and malicious injury.See INJURY.

#### WILLFUL AND WANTON MISCONDUCT

willful and wanton misconduct.See MISCONDUCT.

#### WILLFUL AND WANTON NEGLIGENCE

willful and wanton negligence. See gross negligence under NEGLIGENCE.

#### WILLFUL BLINDNESS

willful blindness. Deliberate avoidance of knowledge of a crime, esp. by failing to make a reasonable inquiry about suspected wrongdoing despite being aware that it is highly probable. • A person acts with willful blindness, for example, by deliberately refusing to look inside an unmarked package after being paid by a known drug dealer to deliver it. Willful blindness creates an inference of knowledge of the crime in question. See Model Penal Code § 2. [Cases: Criminal Law 20, 314. C.J.S. Criminal Law §§ 31–33, 35–39, 700; Negligence § 913.]

#### WILLFUL, CONTINUED, AND OBSTINATE DESERTION

willful, continued, and obstinate desertion. See obstinate desertion under DESERTION.

#### WILLFUL HOMICIDE

willful homicide. See HOMICIDE.

#### WILLFUL INDIFFERENCE TO THE SAFETY OF OTHERS

willful indifference to the safety of others. See willful and wanton misconduct under MISCONDUCT.

#### WILLFUL INFRINGEMENT

willful infringement. See INFRINGEMENT.

#### WILLFUL MISCONDUCT

willful misconduct. See MISCONDUCT.

#### WILLFUL MISCONDUCT OF AN EMPLOYEE

willful misconduct of an employee. See MISCONDUCT.

#### WILLFUL MURDER

willful murder. See MURDER.

#### WILLFUL NEGLIGENCE

willful neglect. See NEGLIGENCE.

#### WILLFUL NEGLIGENCE

willful negligence. 1. See advertent negligence under NEGLIGENCE. 2. See gross negligence (2) under NEGLIGENCE.

#### WILLFULNESS

willfulness. 1. The fact or quality of acting purposely or by design; deliberateness; intention. • Willfulness does not necessarily imply malice, but it involves more than just knowledge. 2. The voluntary, intentional violation or disregard of a known legal duty. — Also termed legal

willfulness. [Cases: Negligence 275. C.J.S. Negligence §§ 98–103, 106–113.]

#### WILLFUL TORT

willful tort. See intentional tort under TORT.

#### WILLFUL WRONG

willful wrong. See intentional wrong under WRONG.

#### WILLIAMS ACT

Williams Act. A federal statute, enacted in 1968, that amended the Securities Exchange Act of 1934 by requiring investors who own more than 5% of a company's stock to furnish certain information to the SEC and to comply with certain requirements when making a tender offer. [Cases: Securities Regulation 52.10–52.50. C.J.S. Securities Regulation §§ 121–141.]

#### WILLS ACT

Wills Act. 1. STATUTE OF WILLS(1). 2. An 1837 English statute that allowed people to dispose of every type of property interest by will and that had an elaborate set of requirements for valid execution. • Some states today continue to adhere to these stringent requirements. Cf. Unif. Probate Code § 2-502. — Also termed (in sense 2) Lord Langdale's Act.

#### WILL SUBSTITUTE

will substitute. A document or instrument that allows a person, upon death, to dispose of an estate in the same or similar manner as a will but without the formalities and expense of a probate proceeding. • The most common will substitutes are trusts, life-insurance plans, and retirement-benefits contracts. The creation of will substitutes has been one of the most important developments in the area of decedents' estates in the past 50 years. Cf. nonprobate asset under ASSET. [Cases: Wills 86.]

#### WINCHESTER, STATUTE OF

Winchester, Statute of. Hist. A statute passed in the 13th year of the reign of Edward I, requiring every man to provide himself with armor to keep the peace, recognizing and regulating the offices of high and petty constables, organizing the police, and enforcing the old Saxon police laws. • It was repealed in 1827 by the Criminal Statutes (England) Repeal Act. St. 7 & 8 Geo. 4, ch. 27.

#### WINCHESTER MEASURE

Winchester measure. Hist. The standard weights and measures of England, originally kept at Winchester.

#### WINDFALL

windfall. An unanticipated benefit, usu. in the form of a profit and not caused by the recipient.



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**WINDFALL-PROFITS TAX**

windfall-profits tax. See TAX.

**WINDING UP**

winding up, n. The process of settling accounts and liquidating assets in anticipation of a partnership's or a corporation's dissolution. Cf. DISSOLUTION(3). [Cases: Corporations 618; Partnership 277. C.J.S. Corporations §§ 859, 861–862; Partnership §§ 318–320.] — wind up, vb. — wind up, n.

**WINDOW-DRESSING**

window-dressing. The deceptive arrangement of something, usu. facts or appearances, to make it appear more attractive or favorable. • The term is often used to describe the practice of some financial managers, esp. some managers of mutual funds, to sell certain positions at the end of a quarter to make an investment's quarterly performance appear better than it actually was. See PORTFOLIO PUMPING.

**WINDOW TAX**

window tax. See TAX.

**WINNER-TAKE-ALL VOTE**

winner-take-all vote. See VOTE(3).

**WIPE**

wipe. See SWIPE(3).

**WIPO**

WIPO. abbr. WORLD INTELLECTUAL PROPERTY ORGANIZATION.

**WIPO COPYRIGHT TREATY**

WIPO Copyright Treaty. A 1996 treaty that made changes in the Berne Convention in light of the TRIPs Agreement and dealt with new copyright issues raised by the emergence of the Internet and other digital technology. • The WIPO Treaty expressly protects computer software and databases and expressly excludes from protection “ideas, procedures, methods of operation or mathematical concepts as such.” The WIPO Copyright Treaty was adopted simultaneously with the WIPO Performances and Phonograms Treaty. — Abbr. WCT.

**WIPO DIGITAL AGENDA**

WIPO digital agenda. See DIGITAL AGENDA.

**WIPO PERFORMANCES AND PHONOGRAMS TREATY**

WIPO Performances and Phonograms Treaty. A 1996 treaty giving performers the rights of attribution and integrity in their performances, and giving producers the rights of reproduction,

distribution, rental, and availability. — Abbr. WPPT.

#### WIRE FRAUD

wire fraud. See FRAUD.

#### WIRETAPPING

wiretapping, n. Electronic or mechanical eavesdropping, usu. done by law-enforcement officers under court order, to listen to private conversations. • Wiretapping is regulated by federal and state law. — Often shortened to tap-ping. See BUGGING; EAVESDROPPING. Cf. PEN REGISTER. [Cases: Telecommunications 493–494, 510. C.J.S. Telegraphs, Telephones, Radio, and Television §§ 233–234, 238, 240, 242, 244, 247–249, 253–254, 262–266, 274.] — wiretap, vb. — wiretap, n.

#### WISBY, LAWS OF

Wisby, laws of. See LAWS OF VISBY.

#### WISH

wish, vb. 1. To desire; to hope. 2. To will; to devise; to give.

#### WITAN

witan (wit-⟨⟨schwa⟩⟩n). [Anglo-Saxon “wise men”] Hist. The members of the king's council who sat to assist the king in administrative and judicial matters. • Among the members were ealdormen, bishops, abbots, high officers, and occasionally the king's friends and relatives.

#### WITCHCRAFT

witchcraft. The practices of a witch, esp. in black magic; sorcery. • Under the Witchcraft Act of 1541 (33 Hen. 8, ch. 8) and the Witchcraft Act of 1603 (1 Jac. ch. 12), witchcraft was a felony punishable by death without benefit of clergy. These acts were repealed in 1736, and the last execution in England for witchcraft occurred in 1716. In the United States, the most conspicuous (and nearly the last) persecution for witchcraft occurred in Salem, Massachusetts, where 20 people were hanged for this offense in 1692.

#### WITE

wite (wIt). Hist. A penal fine exacted by the Crown or other authority for a serious crime, such as murder. — Also spelled wyte.

#### WITENAGEMOT

witenagemot (wit-⟨⟨schwa⟩⟩-n⟨⟨schwa⟩⟩-g⟨⟨schwa⟩⟩-moht). [Anglo-Saxon “a meeting of the wise”] Hist. A national assembly of noblemen, high ecclesiastics, and other great thanes of England who advised and aided the king in the general administration of the government. • Its composition depended on the will of the king. It passed out of existence with the Norman Conquest (1066). Although it was a precursor to the British Parliament, today's body is not a continuation of the witenagemot. — Also spelled wittenagemot; witanagemote.

“[T]he ancient Anglo-Saxon general assembly of the notables [was] called the Witenagemot.... At first the power of the Anglo-Saxon Witenagemot appears to have been considerable, and in fact so much so that the kings were dependent on appointment to that office by the Witan in the early period before the royal succession became hereditary. With the tenth century centralization of power in the Alfredian line of kings, it appears that the power of the Witan began to decline.” Charles Herman Kinnane, *A First Book on Anglo-American Law* 262 (2d ed. 1952).

#### WITEPENNY

witepenny.Hist. In early English law, money paid in satisfaction of a wite.

#### WITH ALL DELIBERATE SPEED

with all deliberate speed.See DELIBERATE SPEED, WITH ALL.

#### WITH ALL FAULTS

with all faults.See AS IS.

#### WITHDRAW

withdraw,vb.1. (vt.) To take back (something presented, granted, enjoyed, possessed, or allowed) <withdraw blame>.2. (vt.) To retract (one's words) <withdraw the objection>.3. (vt.) To refrain from prosecuting or proceeding with (an action) <withdraw the petition for divorce>.4. (vi.) (Of a lawyer) to terminate one's representation of a client before a matter is complete <withdraw from representation>.5. (vt.) To remove a juror < withdraw a biased juror>.6. (vi.) To leave or retire (from a community or society).7. (vi.) (Of a condition or immaterial thing) to vanish, depart.

#### WITHDRAWAL

withdrawal,n.1. The act of taking back or away; removal <withdrawal of consent>.2. The act of retreating from a place, position, or situation < withdrawal from the moot-court competition>.3. The removal of money from a depository <withdrawal of funds from the checking account>.4.RENUNCIATION (3) <withdrawal from the conspiracy to commit arson>.5.RETRACTION(4).6.Parliamentary law. A motion's removal from consideration by its mover. • The mover controls a motion only until the chair states the question, after which the motion belongs to the assembly and the mover cannot withdraw it without the assembly's permission. See request for permission to withdraw a motion under REQUEST. 7.Parliamentary law. See DISCHARGE(9). — withdraw,vb.

#### WITHDRAWAL OF CHARGES

withdrawal of charges.The removal of charges by the one bringing them, such as a prosecutor. See NOLLE PROSEQUI. [Cases: Criminal Law 303.10. C.J.S. Criminal Law § 419.]

#### WITHDRAWAL OF COUNSEL

withdrawal of counsel.An attorney's termination of his or her role in representing a party in a case. • Normally, the attorney must have the court's permission to withdraw from a case. Permission is usu. sought by a written motion (1) explaining the reason for the requested

withdrawal (often, a conflict between attorney and client over a matter such as strategy or fees), and (2) stating whether the client agrees. — Also termed withdrawing of counsel. [Cases: Attorney and Client 76(1). C.J.S. Attorney and Client §§ 219–222, 225, 231.]

#### WITHDRAWING A JUROR

withdrawing a juror.The act or an instance of removing a juror, usu. to obtain a continuance in a case or, sometimes in English practice, to end the case, as when the case has settled, the parties are too anxious to proceed to verdict, or the judge recommends it because the action is not properly before the court.

#### WITHDRAWING OF RECORD

withdrawing of record.Hist. A plaintiff's removing of the nisi prius or trial record to prevent the case from being tried, usu. either before the jury is sworn or afterwards with the consent of defense counsel.

#### WITHDRAWN LAND

withdrawn land.1. See reserved land under LAND. 2.RESERVATION(3).

#### WITHERNAM

withernam (with-<<schwa>>r-nahm), n.[fr. Saxon weder “other” + naam “a taking”] Hist. A reciprocal taking or distress in place of a previous one. See capias in withernam under WITHERNAM.

#### WITHERSAKE

withersake (with-<<schwa>>r-sayk).Archaic. An enemy; esp., a deliberately faithless renegade.

#### WITH FULL POWER

with full power.See committee with power under COMMITTEE(1).

#### WITHHELD SENTENCE

withheld sentence.See suspended sentence under SENTENCE.

#### WITHHOLDING

withholding,n.1. The practice of deducting a certain amount from a person's salary, wages, dividends, winnings, or other income, usu. for tax purposes; esp., an employer's practice of taking out a portion of an employee's gross earnings and paying that portion to the government for income-tax and social-security purposes. [Cases: Internal Revenue 4849; Taxation 1100. C.J.S. Internal Revenue §§ 740–741; Taxation§ 1779.] 2. The money so deducted. — Also termed income-tax withholding. — withhold,vb.

#### WITHHOLDING OF EVIDENCE

withholding of evidence.The act or an instance of obstructing justice by stifling or

suppressing evidence knowing that it is being sought in an official investigation or judicial proceeding. See OBSTRUCTION OF JUSTICE. [Cases: Obstructing Justice 5. C.J.S. Obstructing Justice or Governmental Administration §§ 30–38.]

**WITHHOLDING TAX**

withholding tax. See TAX.

**WITHOUT DAY**

without day. See GO HENCE WITHOUT DAY.

**WITHOUT DELAY**

without delay. 1. Instantly; at once. 2. Within the time reasonably allowed by law.

**WITHOUT DISSENT**

without dissent. See WITHOUT OBJECTION.

**WITHOUT IMPEACHMENT OF WASTE**

without impeachment of waste. (Of a tenant) not subject to an action for waste; not punishable for waste. • This clause is inserted in a lease to give a tenant the right to take certain actions (such as cutting timber) without being held liable for waste. But a tenant cannot abuse the right and will usu. be held liable for maliciously committing waste. — Also termed *absque impetitione vasti*. [Cases: Landlord and Tenant 55(2). C.J.S. Landlord and Tenant § 261.]

**WITHOUT NOTICE**

without notice. Lacking actual or constructive knowledge. • To be a bona fide purchaser, one must buy something “without notice” of another's claim to the item or of defects in the seller's title. To be a holder in due course, one must take a bill or note “without notice” that it is overdue, has been dishonored, or is subject to a claim. UCC § 3-302(a)(2). See NOTICE; bona fide purchaser under PURCHASER(1). [Cases: Bills and Notes 331, 336; Sales 234(1), 473; Vendor and Purchaser 220. C.J.S. Bills and Notes; Letters of Credit §§ 172, 174, 177–179; Sales §§ 232–233, 235; Vendor and Purchaser §§ 482–485, 517.]

**WITHOUT OBJECTION**

without objection. With general consent. — Also termed without dissent. See general consent under CON-SENT(2).

**WITHOUT PREJUDICE**

without prejudice, adv. Without loss of any rights; in a way that does not harm or cancel the legal rights or privileges of a party <dismissed without prejudice>. See dismissal without prejudice under DISMISSAL(1).

**WITHOUT RECOURSE**

without recourse. (In an indorsement) without liability to subsequent holders. • With this

stipulation, one who indorses an instrument indicates that he or she has no further liability to any subsequent holder for payment. — Also termed *sans recours*. [Cases: Bills and Notes 293. C.J.S. Bills and Notes; Letters of Credit § 160.]

#### WITHOUT RESERVE

without reserve. Of or relating to an auction at which an item will be sold for the highest bid price. [Cases: Auctions and Auctioneers 7. C.J.S. Auctions and Auctioneers §§ 2, 8–17.]

#### WITHOUT THIS, THAT

without this, that. See *ABSQUE HOC*.

#### WITH POWER

with power. See committee with power under *COMMITTEE*(1).

#### WITH PREJUDICE

with prejudice, adv. With loss of all rights; in a way that finally disposes of a party's claim and bars any future action on that claim <dismissed with prejudice>. See dismissal with prejudice under *DISMISSAL*(1).

#### WITH RECOURSE

with recourse, adv. (In an indorsement) with liability to subsequent holders. • With this stipulation, one who indorses an instrument indicates that he or she remains liable to the holder for payment. [Cases: Bills and Notes 280, 286. C.J.S. Bills and Notes; Letters of Credit §§ 160, 162.]

#### WITH RESERVE

with reserve. Of or relating to an auction at which an item will not be sold unless the highest bid exceeds a minimum price. [Cases: Auctions and Auctioneers 7. C.J.S. Auctions and Auctioneers §§ 2, 8–17.]

#### WITH STRONG HAND

with strong hand. With force. • In common-law pleading, this term implies a degree of criminal force, esp. as used in forcible-entry statutes.

#### WITNESS

witness, n. 1. One who sees, knows, or vouches for something <a witness to a testator's signature>. 2. One who gives testimony under oath or affirmation (1) in person, (2) by oral or written deposition, or (3) by affidavit <the witness to the signature signed the affidavit>. • A witness must be legally competent to testify. [Cases: Witnesses 224. C.J.S. Witnesses §§ 390–392.] — witness, vb.

“The term ‘witness,’ in its strict legal sense, means one who gives evidence in a cause before a court; and in its general sense includes all persons from whose lips testimony is extracted to be used in any judicial proceeding, and so includes deponents and affiants as well as persons

delivering oral testimony before a court or jury.” 97 C.J.S. Witnesses § 1, at 350 (1957).

“Every witness is an editor: he tells you not everything he saw and heard, for that would be impossible, but what he saw and heard and found significant, and what he finds significant depends on his preconceptions.” Patrick Devlin, *The Criminal Prosecution in England* 66 (1960).

accomplice witness. A witness who is an accomplice in the crime that the defendant is charged with. • A codefendant cannot be convicted solely on the testimony of an accomplice witness. [Cases: Criminal Law 507. C.J.S. Criminal Law § 998.]

adverse witness. See hostile witness.

alibi witness. A witness who testifies that the defendant was in a location other than the scene of the crime at the relevant time; a witness who supports the defendant's alibi.

attesting witness. One who vouches for the authenticity of another's signature by signing an instrument that the other has signed <proof of the will requires two attesting witnesses>. — Also termed subscribing witness. [Cases: Evidence 374; Wills 113. C.J.S. Evidence § 829; Wills §§ 253–255.]

character witness. A witness who testifies about another person's character traits or community reputation. See character evidence under EVIDENCE. [Cases: Witnesses 37(4), 274. C.J.S. Witnesses §§ 97, 461–462.]

competent witness. A witness who is legally qualified to testify. • A lay witness who has personal knowledge of the subject matter of the testimony is competent to testify. Fed. R. Evid. 601–602. [Cases: Witnesses 35–79. C.J.S. Witnesses §§ 87–201, 203.]

corroborating witness. A witness who confirms or supports someone else's testimony. [Cases: Witnesses 410. C.J.S. Witnesses § 776.]

court witness. A witness called or re-called to testify by the judge. • The witness called to testify by the court usu. has expertise in the subject matter of the trial and is considered necessary to resolve a conflict in the testimony. The court's discretion to call its own witnesses exists in both civil and criminal cases.

credible witness. A witness whose testimony is believable.

disinterested witness. A witness who has no private interest in the matter at issue. [Cases: Witnesses 91. C.J.S. Witnesses §§ 211–212.]

expert witness. A witness qualified by knowledge, skill, experience, training, or education to provide a scientific, technical, or other specialized opinion about the evidence or a fact issue. Fed. R. Evid. 702–706. — Also termed skilled witness. See EXPERT; DAUBERT TEST. [Cases: Criminal Law 478–480; Evidence 535–546. C.J.S. Criminal Law §§ 1070–1071; Evidence §§ 521, 523–527, 599–600, 612–617, 619–625, 628–630, 632, 634–638, 644, 649–653, 656–660, 666–668, 670–671, 673–678, 680–682, 685–686, 688.]

going witness. Archaic. A witness who is about to leave a court's jurisdiction, but not the

country. • An example is the witness who leaves one state to go to another.

grand-jury witness. A witness who is called to testify before a grand jury. [Cases: Grand Jury 36.]

hostile witness. A witness who is biased against the examining party, who is unwilling to testify, or who is identified with an adverse party. • A hostile witness may be asked leading questions on direct examination. Fed. R. Evid. 611(c). — Also termed adverse witness. See adverse party under PARTY(2). [Cases: Witnesses 244. C.J.S. Witnesses § 422.]

interested witness. A witness who has a direct and private interest in the matter at issue. • Most jurisdictions provide that a person witnessing a will may not be a devisee under the will. The Uniform Probate Code, however, has abrogated this rule. [Cases: Witnesses 91. C.J.S. Witnesses §§ 211–212.]

lay witness. A witness who does not testify as an expert and who is therefore restricted to giving an opinion or making an inference that (1) is based on firsthand knowledge, and (2) is helpful in clarifying the testimony or in determining facts. Fed. R. Evid. 701. [Cases: Evidence 470–503. C.J.S. Evidence §§ 509–523, 527–596, 610–612, 619, 628, 633, 636, 649–652, 654, 656, 659, 661–663, 665–667, 669–675, 677, 688–690, 698, 708–712, 744–745; Executions § 435.]

material witness. A witness who can testify about matters having some logical connection with the consequential facts, esp. if few others, if any, know about those matters. [Cases: Witnesses 4.]

percipient witness. A witness who has perceived the things about which he or she testifies. See EYEWITNESS; EARWITNESS.

prosecuting witness. A person who files the complaint that triggers a criminal prosecution and whose testimony the prosecution usu. relies on to secure a conviction. [Cases: Criminal Law 210. C.J.S. Criminal Law § 326.]

qualified witness. A witness who, by explaining the manner in which a company's business records are made and kept, is able to lay the foundation for the admission of business records under an exception to the hearsay rule. Fed. R. Evid. 803(6). [Cases: Evidence 373. C.J.S. Evidence §§ 824–825, 917–919, 932–933.]

rebuttal witness. A witness who contradicts or attempts to contradict evidence previously presented.

res gestae witness. A witness who, having been at the scene of an incident, can give a firsthand account of what happened. See RES GESTAE. [Cases: Criminal Law 363; Evidence 120. C.J.S. Criminal Law §§ 867–870; Evidence § 349.]

skilled witness. See expert witness.

subscribing witness. One who witnesses the signatures on an instrument and signs at the end of the instrument to that effect. See attesting witness. [Cases: Evidence 373; Wills 123. C.J.S. Evidence §§ 824–825, 917–919, 932–933; Wills §§ 303–305.]



supernumerary witness. An unrequired witness, such as a third witness to a will where only two are required.

swift witness. See zealous witness.

target witness. 1. The person who has the knowledge that an investigating body seeks. [Cases: Grand Jury 37.] 2. A witness who is called before a grand jury and against whom the government is also seeking an indictment.

turncoat witness. A witness whose testimony was expected to be favorable but who becomes (usu. during the trial) a hostile witness.

ultroneous witness. Scots law. A witness who comes forward without being summoned to appear in court.

zealous witness (zel-*<<schwa>>*s). A witness who shows partiality toward the litigant that called him or her to testify and who seems eager to help that side in the lawsuit. — Also termed swift witness.

#### WITNESS BOX

witness box. See WITNESS STAND.

#### WITNESS CLAUSE

witness clause. See TESTIMONIUM CLAUSE.

#### WITNESSETH

witnesseth, vb. Shows; records. • This term, usu. set in all capitals, commonly separates the preliminaries in a contract, up through the recitals, from the contractual terms themselves. Modern drafters increasingly avoid it as an antiquarian relic. Traditionally, the subject of this verb was This Agreement: the sentence, boiled down, was This Agreement witnesseth [i.e., shows or records] that, whereas [the parties have agreed to contract with one another], the parties therefore agree as follows.... Many modern contracts erroneously retain the Witnesseth even though a new verb appears in the preamble: This Agreement is between [one party and the other party]. After the preamble is a period, followed by an all-capped WITNESSETH. It is an example of a form retained long after its utility, and most lawyers do not know what it means or even what purpose it once served.

#### WITNESS FEE

witness fee. See FEE(1).

#### WITNESSING PART

witnessing part. See ATTESTATION CLAUSE.

#### WITNESS JURAT

witness jurat. See JURAT.

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**WITNESS-PROTECTION PROGRAM**

witness-protection program. A federal or state program in which a person who testifies against a criminal is assigned a new identity and relocated to another part of the country to avoid retaliation by anyone convicted as a result of that testimony. • The Federal Witness Protection Program was established by the Organized Crime Control Act of 1970 and is administered by the marshals of the U.S. Justice Department.

**WITNESS STAND**

witness stand. The space in a courtroom, usu. a boxed area, occupied by a witness while testifying. — Often shortened to stand. — Also termed witness box. [Cases: Witnesses 228. C.J.S. Witnesses §§ 396–398, 404–405.]

**WITNESS-TAMPERING**

witness-tampering. The act or an instance of obstructing justice by intimidating, influencing, or harassing a witness before or after the witness testifies. • Several state and federal laws, including the Victim and Witness Protection Act of 1982 (18 USCA § 1512), provide criminal penalties for tampering with witnesses or other persons in the context of a pending investigation or official proceeding. See OBSTRUCTION OF JUSTICE. [Cases: Obstructing Justice 5. C.J.S. Obstructing Justice or Governmental Administration §§ 30–38.]

**WITTENAGEMOT**

wittenagemot. See WITENAGEMOT.

**WITWORD**

witword (wit-w<<schwa>>rd). Hist. 1. A legally allowed claim; esp., the right to vindicate ownership or possession by one's affirmation under oath. 2. A will or testament.

**WL**

WL. abbr. WESTLAW.

**WMD**

WMD. See weapon of mass destruction under WEAPON.

**WOBBLER**

wobbler. Slang. A crime that can be charged as either a felony or a misdemeanor. [Cases: Criminal Law 27. C.J.S. Criminal Law §§ 9–12.]

**WOLF'S HEAD**

wolf's head. Hist. An outlaw, who was often referred to as carrying a wolf's head (caput lupinum) and to be no more than a wild beast or wolf who could be slain and whose head could be carried to the king. — Also termed woolferthod. See OUTLAW.

“Outlawry is the last weapon of ancient law, but one that it must often use. As has been well

said, it is the sentence of death pronounced by a community which has no police constables or professional hangmen. To pursue the outlaw and knock him on the head as though he were a wild beast is the right and duty of every law-abiding man. 'Let him bear the wolf's head': this phrase is in use even in the thirteenth century." 1 Frederick Pollock & Frederic W. Maitland, *The History of English Law Before the Time of Edward I* 476 (2d ed. 1898).

#### WOMEN'S BUREAU

Women's Bureau. A unit in the U.S. Department of Labor responsible for formulating policies and standards to promote the welfare of wage-earning women.

#### WOMEN'S SHELTER

women's shelter. See SHELTER.

#### WOMEN'S SUFFRAGE AMENDMENT

Women's Suffrage Amendment. See NINETEENTH AMENDMENT.

#### WOOD-CORN

wood-corn, n. Hist. A quantity of oats or grain paid by customary tenants to a lord for the privilege of picking up dead or broken wood.

#### WOOD-GELD

wood-geld (wuud-geld). Hist. 1. Money paid for the privilege of taking wood from a forest. 2. Immunity from paying money for this privilege. — Also termed pudzeld.

#### WOOD-LEAVE

wood-leave. Hist. A license or right to cut down, remove, and use standing timber.

#### WOOD-MOTE

wood-mote (wuud-moht). See COURT OF ATTACHMENTS.

#### WOOD-PLEA COURT

Wood-Plea Court. Hist. A court held twice a year in Clun Forest, in Shropshire, to determine matters of wood and agistments.

#### WOODSHEDDING

woodshedding. See HORSESHEDDING.

#### WOODWARD

woodward (wuud-word), n. Hist. A forest officer who patrols and protects the forest. [Cases: Woods and Forests 7. C.J.S. Woods and Forests §§ 9–11, 14–15.]

#### WOOLFERTHFOD

woolferthfod. See WOLF'S HEAD.

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**W.O.P.**

w.o.p.abbr.WANT OF PROSECUTION.

**WORD OF ART**

word of art. See TERM OF ART.

**WORDS ACTIONABLE IN THEMSELVES**

words actionable in themselves.Language that is libelous or slanderous per se. See slander per se under SLANDER; libel per se under LIBEL. [Cases: Libel and Slander 33. C.J.S. Libel and Slander; Injurious Falsehood § 198.]

**WORDS OF LIMITATION**

words of limitation.Language in a conveying instrument — often nonliteral language — describing the extent or quality of an estate. • For example, under long-standing principles of property law, the phrase “to A and her heirs” creates a fee simple in A but gives nothing to A's heirs. See LIMITATION(4). [Cases: Deeds 120–136; Wills 591, 597(4).C.J.S. Deeds §§ 36, 231–236, 245–268, 270–278; Wills § 1193.]

“ ‘Words of limitation’ is the phrase used to describe the words which limit (i.e., delimit or mark out) the estate to be taken. Thus in a conveyance today ‘to A in fee simple,’ the words ‘in fee simple’ are words of limitation, for they show what estate A is to have.” Robert E. Megarry & M.P. Thompson, *A Manual of the Law of Real Property* 29 (6th ed. 1993).

**WORDS OF NEGOTIABILITY**

words of negotiability.See NEGOTIABLE WORDS.

**WORDS OF PROCREATION**

words of procreation (proh-kree-ay-sh<<schwa>>n). Language in a deed essential to create an estate tail, such as an estate “to A and the heirs of his body.” [Cases: Deeds 127. C.J.S. Deeds § 247.]

**WORDS OF PURCHASE**

words of purchase.Language in a deed or will designating the persons who are to receive the grant. • For example, the phrasing “to A for life with a remainder to her heirs” creates a life estate in A and a remainder in A's heirs. See PURCHASE(2). [Cases: Deeds 105, 120–136; Wills 597(4). C.J.S. Deeds §§ 36, 198–200, 202–206, 231–236, 245–268, 270–278.]

**WORDS OF SEVERANCE**

words of severance.In a grant of lands, words showing that the tenants were each to take a distinct share in the property as opposed to undivided portions. • Typical words of severance are share and share alike, to be divided among, equally, and between.

**WORK**

work,n.1. Physical and mental exertion to attain an end, esp. as controlled by and for the benefit of an employer; labor.

additional work. 1. Work that results from a change or alteration in plans concerning the work required, usu. under a construction contract; added work necessary to meet the performance goals under a contract. [Cases: Contracts 232(1). C.J.S. Contracts §§ 393–398.] 2. See extra work.

extra work.In construction law, work not required under the contract; something done or furnished in addition to the contract's requirements; work entirely outside and independent of the contract and not contemplated by it. • A contractor is usu. entitled to charge for extra work consisting of labor and materials not contemplated by or subsumed within the original contract, at least to the extent that the property owner agrees to a change order. Materials and labor not contemplated by the contract, but that are required by later changes in the plans and specifications, are considered to be extra work. — Also termed additional work. [Cases: Contracts 232(1). C.J.S. Contracts §§ 393–398.]

heavy work.Work that involves frequent lifting and carrying of large items. • Under the Social Security Administration regulations for describing a worker's physical limitations, heavy work involves lifting no more than 100 pounds, with frequent lifting or carrying of objects weighing up to 50 pounds. 20 CFR § 404. [Cases: Social Security and Public Welfare 140.40, 143.70–143.80. C.J.S. Social Security and Public Welfare §§ 55, 69, 72.]

inherently dangerous work.Work that can be carried out only by the exercise of special skill and care and that involves a grave risk of serious harm if done unskillfully or carelessly.

light work.Work that involves some limited lifting and moving. • Under the Social Security Administration regulations for describing a worker's physical limitations, light work includes walking, standing, sitting while pushing or pulling arm or leg controls, and lifting no more than 20 pounds, with frequent lifting or carrying of objects that weigh up to 10 pounds. 20 CFR § 404. [Cases: Social Security and Public Welfare 140.40, 143.85. C.J.S. Social Security and Public Welfare §§ 55, 72.]

medium work.Work that involves some frequent lifting and moving. • Under the Social Security Administration regulations for describing a worker's physical limitations, medium work includes lifting up to 50 pounds, with frequent lifting or carrying of objects weighing up to 25 pounds. 20 CFR § 404. [Cases: Social Security and Public Welfare 140.40, 143.70–143.80. C.J.S. Social Security and Public Welfare §§ 55, 69, 72.]

sedentary work.Work that involves light lifting and only occasional walking or standing. • Under the Social Security Administration regulations for describing a worker's physical limitations, sedentary work involves lifting of no more than ten pounds, occasionally carrying small items such as docket files and small tools, and occasional standing or walking. 20 CFR § 404. [Cases: Social Security and Public Welfare 140.40, 143.85. C.J.S. Social Security and Public Welfare §§ 55, 72.]

semi-skilled work.Work that may require some alertness and close attention, such as inspecting items or machinery for irregularities, or guarding property or people against loss or

injury. 20 CFR § 404.1568(b). — Also written semiskilled work. [Cases: Social Security and Public Welfare 140.40, 143.70–143.85. C.J.S. Social Security and Public Welfare §§ 55, 69, 72.]

skilled work. Work requiring the worker to use judgment, deal with the public, analyze facts and figures, or work with abstract ideas at a high level of complexity. 20 CFR § 404. [Cases: Social Security and Public Welfare 140.40, 143.70–143.85. C.J.S. Social Security and Public Welfare §§ 55, 69, 72.]

unskilled work. Work requiring little or no judgment, and involving simple tasks that can be learned quickly on the job. 20 CFR § 404. [Cases: Social Security and Public Welfare 140.40, 143.70–143.85. C.J.S. Social Security and Public Welfare §§ 55, 69, 72.]

very heavy work. Work that involves frequent lifting of very large objects and frequent carrying of large objects. • Under the Social Security Administration regulations for describing a worker's physical limitations, very heavy work involves lifting 100 pounds or more, and frequent lifting or carrying of objects weighing 50 pounds or more. 20 CFR § 404.1567(e).

work of necessity. Work reasonably essential to the public's economic, social, or moral welfare as determined by the community standards at a particular time, and (formerly) excepted from the operation of blue laws. See BLUE LAW. [Cases: Sunday 7. C.J.S. Sunday §§ 17–19, 32–33.]

2. Copyright. An original expression, in fixed or tangible form (such as paper, audiotape, or computer disk), that may be entitled to common-law or statutory copyright protection. • A work may take many different forms, including art, sculpture, literature, music, crafts, software, and photography. [Cases: Copyrights and Intellectual Property 3. C.J.S. Copyrights and Intellectual Property § 9.]

anonymous work. A work that, on copies or phonorecords, does not identify any natural person as the author. 17 USCA § 101.

architectural work. The copyrightable design of a building, as fixed in tangible media such as plans, drawings, and the building itself. 17 USCA § 102. • Only the overall design is protected, not each design element. This category of works was added to U.S. law by the Berne Convention Implementation Act of 1988. It is one of eight categories eligible for copyright protection. [Cases: Copyrights and Intellectual Property 6. C.J.S. Copyrights and Intellectual Property § 16.]

artistic work. Any visual representation, such as a painting, drawing, map, photograph, sculpture, engraving, or architectural plan.

audiovisual work. A work consisting of related images that are presented in a series, usu. with the aid of a machine, and accompanied by sound. • An example of an audiovisual work is a lecture illustrated with a filmstrip, or a movie with a soundtrack. [Cases: Copyrights and Intellectual Property 10.1. C.J.S. Copyrights and Intellectual Property § 15.]

collective work. 1. A publication (such as a periodical issue, anthology, or encyclopedia) in which several contributions, constituting separate and independent works in themselves, are assembled into a copyrightable whole. 2. A selection and arrangement of brief portions of different

movies, television shows, or radio shows into a single copyrightable work. • If the selecting and arranging involves any originality, the person who selects and arranges the clips may claim a copyright even if copyright cannot be claimed in the individual component parts. Cf. COMPILATION(1).

“If a work is not joint and not derivative but nevertheless consists of works of authorship created by more than one person, it is a compilation of some sort except for the possibility that it is a work for hire.... If the component parts have an independent identity, that is, they are works of authorship, then the compilation is a collective work, a type of compilation.” Arthur R. Miller & Michael H. Davis, *Intellectual Property in a Nutshell* 374 (2d ed. 1990).

composite work (k<<schwa>>m-poz-it). An original publication that relates to a variety of subjects and that includes discrete selections from many authors. • Although the distinguishable parts are separately protectable, the owner of the composite work — not the individual authors — owns the renewal term, if any. 17 USCA § 304(a).

creative work. See work of authorship.

derivative work. A copyrightable creation that is based on a preexisting product; a translation, musical arrangement, fictionalization, motion-picture version, abridgment, or any other recast or adapted form of an original work. • Only the holder of the copyright on the original form can produce or permit someone else to produce a derivative work. 17 USCA § 101. — Sometimes shortened to derivative. Cf. COMPILATION(1). [Cases: Copyrights and Intellectual Property 12(3).]

“[W]hile a compilation consists merely of the selection and arrangement of pre-existing material without any internal changes in such material, a derivative work involves recasting or transformation, i.e., changes in the pre-existing material, whether or not it is juxtaposed in an arrangement with other pre-existing materials. A catalog constitutes a compilation, and a translation of a pre-existing work constitutes a derivative work.” 1 Melville B. Nimmer & David Nimmer, *Nimmer on Copyright* § 3.02, at 3–5 (Supp. 1997).

dramatic work. Any form of nonliterary work created for performance and viewing. • The term includes plays, scripts, films, choreographic works, and similar creations. [Cases: Copyrights and Intellectual Property 7. C.J.S. Copyrights and Intellectual Property § 13.]

joint work. A work created or developed by two or more people whose contributions blend inseparably or interdependently into the whole work. • The cocreators have equal legal rights to register and enjoy the copyright, but this does not affect any other contractually unequal ownership arrangements. [Cases: Copyrights and Intellectual Property 41(3).]

literary work. A nonaudiovisual work that is expressed in verbal, numerical, or other symbols, such as words or musical notation, and embodied in some type of physical object. • Literary works are one of eight general categories that are eligible for copyright protection. 17 USCA § 101. [Cases: Copyrights and Intellectual Property 5. C.J.S. Copyrights and Intellectual Property § 11.]

“Copyright protection extends to literary works which are defined as works, other than

audiovisual works, expressed in words, numbers, or other verbal or numerical symbols or indicia, regardless of the nature of the material objects, such as books, periodicals, manuscripts, phonorecords, film, tapes, disks, or cards in which they are embodied. The term 'literary work' does not connote any criterion of literary merit or qualitative value and includes catalogs and directories; similar factual, reference or instructional works; compilations of data; computer data bases, and computer programs." 18 Am. Jur. 2d Copyright and Literary Property § 25, at 360 (1985).

pictorial, graphic, and sculptural work. Two- or three-dimensional works of graphic, fine, or applied art that are eligible for copyright protection. • This is one of eight general classifications covered by copyright law. Examples are globes, architectural drawings, photographs, and models. 17 USCA § 101. — Abbr. PGS. [Cases: Copyrights and Intellectual Property 6. C.J.S. Copyrights and Intellectual Property § 16.]

posthumous work. The product of an author who died before publication. [Cases: Copyrights and Intellectual Property 33. C.J.S. Copyrights and Intellectual Property §§ 31–32, 34, 94.]

pseudonymous work. A work done by an author who uses a fictitious name.

work for hire. A copyrightable work produced either by an employee within the scope of employment or by an independent contractor under a written agreement; esp., a work specially ordered or commissioned for use as (1) a contribution to a collective work, (2) a translation, (3) a supplementary work, (4) a part of a movie or other audiovisual work, (5) a compilation, (6) an instructional text, (7) a test, (8) answer material for a test, or (9) an atlas. • If the work is produced by an independent contractor, the parties must agree expressly in writing that the work will be a work for hire. The employer or commissioning party owns the copyright. — Also termed work made for hire. [Cases: Copyrights and Intellectual Property 41(2).]

work of authorship. The product of creative expression, such as literature, music, art, and graphic designs. • Copyright protects a work of authorship if it meets three criteria. First, the work must be original, not a copy. Second, the work must be presented in a fixed medium, such as a computer disk, a canvas, or paper. Finally, some creativity must have been involved in the work's creation, although the amount of creativity required depends on the particular work. — Also termed creative work. [Cases: Copyrights and Intellectual Property 4. C.J.S. Copyrights and Intellectual Property §§ 9–10, 16.]

work of the United States government. A work created by a U.S. government officer or employee in the course of performing official duties. • By statute, federal-government works may not be copyrighted. [Cases: Copyrights and Intellectual Property 10.3. C.J.S. Copyrights and Intellectual Property § 18.]

work, vb. 1. To exert effort; to perform, either physically or mentally <lawyers work long hours during trial>. 2. To function properly; to produce a desired effect <the strategy worked>. 3. Patents. To develop and use (a patented invention, esp. to make it commercially available) <the patentee failed to work the patent>. • Failure to work a patent in a specified amount of time is grounds for a compulsory license in some countries. [Cases: Patents 191.]



C.J.S. Patents §§ 217, 314, 339.]

“A patentee has the exclusive right to make, use, or sell the invention. 35 U.S.C.A. § 154. The right includes the right to refrain from making, using, or selling the invention. In many foreign countries, the inventor is obliged to ‘work’ the patent and if he does not do so, he can be required to grant a compulsory license to others who wish to exploit the invention. But an American patentee is under no such duty, although there are antitrust implications involved in the failure to work a patent.” Arthur R. Miller & Michael H. Davis, *Intellectual Property in a Nutshell* 128–29 (2d ed. 1990).

#### WORK AND LABOR

work and labor.Hist. A common count in an action of assumpsit for the work and labor performed and materials furnished by the plaintiff. See ASSUMPSIT. [Cases: Assumpsit, Action of 5. C.J.S. Assumpsit, Action of §§ 3, 6, 8.]

#### WORKER

worker. 1. One who labors to attain an end; esp., a person employed to do work for another. 2. A person who offers to perform services for compensation in the employ of another, whether or not the person is so employed at a given time.

#### WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT

Worker Adjustment and Retraining Notification Act.A federal law that requires an employer to provide notice of a plant closing or mass layoff, 60 days before the closing or layoff, to the employees, the state-dislocated-workers unit, and the chief elected official of the unit of local government where the plant closing or layoff is to occur. 29 USCA §§ 2101–2109. — Abbr. WARN. [Cases: Labor Relations 7.1.]

#### WORKERS' COMPENSATION

workers' compensation.A system of providing benefits to an employee for injuries occurring in the scope of employment. • Most workers'-compensation statutes both hold the employer strictly liable and bar the employee from suing the employer in tort. — Abbr. WC. — Also termed workmen's compensation; employers' liability. [Cases: Workers' Compensation 11.C.J.S. Workmen's Compensation §§ 11–19.]

“Workers' compensation laws were designed to provide employees with expansive protection against the consequences of employment-related injuries. Injured workers no longer had to establish negligence attributable to their employer in order to obtain legal redress. They merely had to demonstrate that their conditions arose out of and during the course of their employment.” Mark A. Rothstein et al., *Employment Law* § 7.3, at 406 (1994).

#### WORKERS'-COMPENSATION ACT

workers'-compensation act.A statute by which employers are made responsible for bodily harm to their workers arising out of and in the course of their employment, regardless of the fault of either the employee or the employer.

**WORKERS'-COMPENSATION BOARD**

workers'-compensation board. An agency that reviews cases arising under workers'-compensation statutes and administers the related rules and regulations. — Also termed workers'-compensation commission. [Cases: Workers' Compensation 1076–1096.10. C.J.S. Workmen's Compensation §§ 700–729.]

“Workers' compensation boards ... are tribunals ... of limited and special jurisdiction and have only such authority and power as have been conferred upon them by express grant, or by implication as necessary and incidental to the full exercise of their authority. The functions of such agencies may include the settlement of disputes with respect to the right to and the amount of compensation, the supervision of voluntary settlements or agreements, the collection and administration of compensation funds, and the supervision and regulation of matters pertaining to compensation insurance.” 82 Am. Jur. 2d Workers' Compensation § 56, at 65 (1992).

**WORKERS'-COMPENSATION LIEN**

workers'-compensation lien. See LIEN.

**WORKERS'-COMPENSATION SUBROGATION LIEN**

workers'-compensation subrogation lien. See workers'-compensation lien under LIEN.

**WORKFARE**

workfare. A system of requiring a person receiving a public-welfare benefit to earn that benefit by performing a job provided by a government agency. [Cases: Social Security and Public Welfare 4.15. C.J.S. Social Security and Public Welfare § 11.]

**WORK FOR HIRE**

work for hire. See WORK(2).

**WORK FURLOUGH**

work furlough (f<<schwa>>r-loh). A prison-treatment program allowing an inmate to be released during the day to work in the community. See WORK-RELEASE PROGRAM . [Cases: Convicts 7(2). C.J.S. Convicts §§ 16–18.]

**WORK-FURLOUGH PROGRAM**

work-furlough program. See WORK-RELEASE PROGRAM.

**WORKHOUSE**

workhouse. A jail for criminals who have committed minor offenses and are serving short sentences. [Cases: Prisons 13.3.]

**WORKING CAPITAL**

working capital. See CAPITAL.

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**WORKING CAPITAL ACCEPTANCE**

working capital acceptance. See finance bill under BILL(6).

**WORKING CONTROL**

working control. See CONTROL.

**WORKING EXAMPLE**

working example. See EXAMPLE.

**WORKING INTEREST**

working interest. Oil & gas. The rights to the mineral interest granted by an oil-and-gas lease, so called because the lessee acquires the right to work on the leased property to search, develop, and produce oil and gas, as well as the obligation to pay all costs. See ROYALTY(2). — Also termed leasehold interest; operating interest. [Cases: Mines and Minerals 73.1(2). C.J.S. Mines and Minerals §§ 241, 243, 265.]

**WORKING MODEL**

working model. Patents. A sample of an invention, usu. built for testing and for displaying to potential buyers. • The building of a working model is called “actual reduction to practice.” It is not required for a patent, but it can help the applicant to clarify the description and to establish a date of invention in the event of an interference. [Cases: Patents 90(6).]

**WORKING PAPERS**

working papers. 1. WORK PERMIT; esp., an employment certificate or permit required of an employer in some states before a minor may be hired. 2. Accounting. The records kept by an independent auditor of the procedures followed, tests performed, information obtained, and conclusions reached in an audit.

**WORK-IN-PROCESS**

work-in-process. A product being manufactured or assembled but not yet completed. — Also termed work-in-progress.

**WORK MADE FOR HIRE**

work made for hire. See work for hire under WORK(2).

**WORKMEN'S COMPENSATION**

workmen's compensation. See WORKERS' COMPENSATION.

**WORK OF AUTHORSHIP**

work of authorship. See WORK(2).

**WORK OF NECESSITY**

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work of necessity.See WORK(1).

#### WORK OF THE UNITED STATES GOVERNMENT

work of the United States government.See WORK(2).

#### WORKOUT

workout,n.1. The act of restructuring or refinancing overdue loans. 2.Bankruptcy. A debtor's agreement, usu. negotiated with a creditor or creditors out of court, to reduce or discharge the debt. — work out,vb.

#### WORK PERMIT

work permit.An alien's documentary work authorization from the Immigration and Naturalization Service. • Under the Immigration Reform and Control Act of 1986, it is illegal for an employer to hire an alien who lacks a work permit. 8 USCA § 1324(a)(1). — Also termed working papers.

#### WORKPIECE

workpiece.Patents. The embodiment of an invention, usu. a device, as the patent claims describe how to make and use it.

#### WORKPLACE

workplace. A person's place of employment or work setting in general. See SAFE WORKPLACE .

#### WORK PRODUCT

work product.Tangible material or its intangible equivalent — in unwritten or oral form — that was either prepared by or for a lawyer or prepared for litigation, either planned or in progress. • Work product is generally exempt from discovery or other compelled disclosure. The term is also used to describe the products of a party's investigation or communications concerning the subject matter of a lawsuit if made (1) to assist in the prosecution or defense of a pending suit, or (2) in reasonable anticipation of litigation.Fed. R. Evid. 26. — Also termed attorney work product. [Cases: Criminal Law 627.5(6); Federal Civil Procedure 1600(3); Pretrial Procedure 35. C.J.S. Criminal Law §§ 449–450; Discovery § 29.]

core work product.See opinion work product.

fact work product.Tangible work product that includes facts but not an attorney's mental impressions. • Fact work product is subject to a qualified privilege. It is not discoverable unless the party seeking discovery can show a substantial need for the materials. See Fed. R. Evid. 26(b)(3). — Also termed ordinary work product.

opinion work product.Work product, tangible or intangible, that includes or reflects an attorney's thoughts, such as impressions, theories, and conclusions. • Opinion work product is almost wholly immune from discovery. Fed. R. Evid. 26(b)(3). — Also termed core work product.

ordinary work product. See fact work product.

#### WORK-PRODUCT RULE

work-product rule. The rule providing for qualified immunity of an attorney's work product from discovery or other compelled disclosure. Fed. R. Civ. P. 26(b)(3). • The exemption was primarily established to protect an attorney's litigation strategy. *Hickman v. Taylor*, 329 U.S. 495, 67 S.Ct. 385 (1947). — Also termed work-product immunity; work-product privilege; work-product exemption; attorney-work-product privilege. [Cases: Criminal Law 627.5(6); Federal Civil Procedure 1600(3); Pretrial Procedure 35. C.J.S. Criminal Law §§ 449–450; Discovery § 29.]

“Although the work-product rule has often been spoken of as creating a ‘privilege,’ it is a qualified one that does not grant full immunity from discovery. To the extent the term ‘privilege’ causes confusion between the work-product rule and the absolute privilege for confidential communications between attorney and client, it is important to keep in mind this distinction.... Rule 26(b)(3) provides that work-product material is subject to discovery ‘only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of the party's case and that the party is unable without undue hardship to obtain the substantial equivalent of the materials by other means.’ ” 8 Charles Alan Wright et al., *Federal Practice and Procedure* § 2025, at 371, 373–74 (2d ed. 1994).

#### WORK-RELEASE PROGRAM

work-release program. A correctional program allowing a prison inmate — primarily one being readied for discharge — to hold a job outside prison. — Also termed work-furlough program. See *HALFWAY HOUSE*. [Cases: Convicts 7(2). C.J.S. Convicts §§ 16–18.]

#### WORKS

works. 1. A mill, factory, or other establishment for manufacturing or other industrial purposes; a manufacturing plant; a factory. 2. Any building or structure on land.

new works. Civil law. A structure newly commenced on a particular estate. • A denunciation of new works is a remedy allowed for an adjacent landowner whose property will be injured if the structure is completed.

public works. Structures (such as roads or dams) built by the government for public use and paid for by public funds. [Cases: States 83. C.J.S. States § 148.]

#### WORK STOPPAGE

work stoppage. A cessation of work; *STRIKE*(1).

#### WORLD

world. 1. The planet Earth <the world has limited natural resources>. 2. All the Earth's inhabitants; the public generally <the world will benefit from this discovery>. 3. All persons who have a claim or acquire an interest in a particular subject matter <a judgment in rem binds all the

world>.

#### WORLD BANK

World Bank.A U.N. specialized agency established in 1945 to provide loans that aid in economic development, through economically sustainable enterprises. • Its capital derives from both U.N. member states and loans on the open market. — Also termed International Bank for Reconstruction and Development. [Cases: International Law 10.45(2).]

#### WORLD COURT

World Court.See INTERNATIONAL COURT OF JUSTICE.

#### WORLD FUND

world fund.See global fund under MUTUAL FUND.

#### WORLD INTELLECTUAL PROPERTY ORGANIZATION

World Intellectual Property Organization.An agency of the United Nations Educational, Scientific, and Cultural Organization formed in 1967 to (1) promote intellectual-property protection worldwide through cooperation among nations, and (2) administer multilateral treaties dealing with legal and administrative aspects of intellectual property. • The organization's headquarters are in Geneva, Switzerland. — Abbr. WIPO.

#### WORLDLY

worldly,adj. Of or relating to the present state of existence; temporal; earthly <worldly possessions>. See SECULAR.

#### WORLD TRADE ORGANIZATION

World Trade Organization.The body charged with enforcing intellectual-property provisions of the GATT treaty. • WTO comprises the signatories of the Uruguay Round of GATT negotiations. — Abbr. WTO. See TRIPS.

#### WORLDWIDE MILITARY-LOCATOR SERVICE

worldwide military-locator service.A search service that locates the current duty station of a member of any branch of the United States military services, esp. for enforcing the service member's child-support obligations. • Each branch of the armed forces maintains a worldwide locator service that is available to military and nonmilitary persons, their counsel, and Title IV-D agencies. Use of the locator service requires the member's full name and social-security number.

#### WORSHIP

worship. 1. Any form of religious devotion or service showing reverence for a divine being <freedom of worship>. [Cases: Religious Societies 1.C.J.S. Religious Societies §§ 2–5, 7–13.]

public worship. 1. Worship conducted by a religious society according to the society's system of ecclesiastical authority, ritual propriety, and rules and regulations. 2. Worship under public

authority. 3. Worship in a public place, without privacy or concealment. 4. Worship allowed by all members of the public equally.

2.English law. A title of honor or dignity used in addressing certain magistrates or other high officers. • The title is always preceded by a possessive pronoun, usu. your <your worship>.

#### WORT

wort (w<<schwa>>rt), n. Archaic. A country farm; a curtilage. — Also termed worth.

#### WORTH

worth,n.1. The monetary value of a thing; the sum of the qualities that render a thing valuable and useful, expressed in the current medium of exchange. 2. The emotional or sentimental value of something. 3. The total wealth held by a person or entity.

net worth.A measure of one's wealth, usu. calculated as the excess of total assets over total liabilities. — Also termed net assets. [Cases: Internal Revenue 4530. C.J.S. Internal Revenue §§ 645, 872.]

#### 4.WORT.

#### WORTHIER-TITLE DOCTRINE

worthier-title doctrine. 1.Hist. The common-law doctrine that if a beneficiary of a will would receive an identical interest as an heir under the laws of intestacy, the person takes the interest as an heir rather than as a beneficiary. • The doctrine has been abolished in most states. [Cases: Wills 713. C.J.S. Wills § 1639.] 2.Property. The doctrine that favors a grantor's intent by construing a grant as a reversion in the grantor instead of as a remainder in the grantor's heirs. — Also termed doctrine of worthier title. See REMAINDER; REVERSION.

#### WORTHIEST OF BLOOD

worthiest of blood,n. Hist. Of or relating to males, because of the preference given them in the laws of descent. See PRIMOGENITURE.

“Thus sons shall be admitted before daughters; or, as our male lawgivers have somewhat uncomplaisantly expressed it, the worthiest blood shall be preferred. As if John Stiles hath two sons, Matthew and Gilbert, and two daughters, Margaret and Charlotte, and dies; first Matthew, and (in case of his death without issue) then Gilbert shall be admitted to the succession in preference to both the daughters.” 2 William Blackstone, Commentaries on the Laws of England 213 (1766).

#### WORTHLESS

worthless,adj. Totally lacking worth; of no use or value.

#### WORTHLESS CHECK

worthless check.See bad check under CHECK.

**WORTHLESS PERSON**

worthless person. Archaic. A person who owns nothing.

**WORTHLESS SECURITY**

worthless security. See SECURITY.

**WORTHY**

worthy, adj. Having worth; possessing merit; valuable.

**WOUNDED FEELINGS**

wounded feelings. Injuries resulting from insults, indignity, or humiliation, as distinguished from the usual mental pain and suffering consequent to physical injury. [Cases: Damages 48–50.10. C.J.S. Damages §§ 94–96, 98–104; Torts §§ 66–83.]

**WOUNDING**

wounding. 1. An injury, esp. one involving a rupture of the skin. 2. An injury to feelings or reputation. 3. Hist. An aggravated type of assault and battery in which one person seriously injures another.

**W.P.**

w.p. abbr. WANT OF PROSECUTION.

**WPPT**

WPPT. abbr. WIPO PERFORMANCES AND PHONOGRAMS TREATY.

**WRAP ACCOUNT**

wrap account. See ACCOUNT.

**WRAPAROUND MORTGAGE**

wraparound mortgage. See MORTGAGE.

**WRAP-FEE ACCOUNT**

wrap-fee account. See wrap account under ACCOUNT.

**WRECK**

wreck, n. 1. SHIPWRECK. 2. Goods cast ashore from a wrecked vessel and not claimed by the owner within a specified period (such as one year).

**WRECKFREE**

wreckfree, adj. (Of a port, etc.) exempt from the forfeiture of shipwrecked goods and vessels to the Crown.

**WRIT**



writ (rit). A court's written order, in the name of a state or other competent legal authority, commanding the addressee to do or refrain from doing some specified act. [Cases: Injunction 202.]

“[W]rits have a long history. We can trace their formal origin to the Anglo-Saxon formulae by which the king used to communicate his pleasure to persons and courts. The Anglo-Norman writs, which we meet with after the Conquest, are substantially the Anglo-Saxon writs turned into Latin. But what is new is the much greater use made of them, owing to the increase of royal power which came with the Conquest.” W.S. Holdsworth, *Sources and Literature of English Law* 20 (1925).

alias writ. An additional writ issued after another writ of the same kind in the same case. • It derives its name from a Latin phrase that formerly appeared in alias writs: *sicut alias praecipimus*, meaning “as we at another time commanded.” Cf. alias execution under EXECUTION. [Cases: Process 45. C.J.S. Process §§ 24, 49.]

alternative writ. A common-law writ commanding the person against whom it is issued either to do a specific thing or to show cause why the court should not order it to be done. [Cases: Mandamus 158. C.J.S. Mandamus § 343.]

close writ. Hist. 1. A royal writ sealed because the contents were not deemed appropriate for public inspection. Cf. patent writ; CLAUSE ROLLS. 2. A writ directed to a sheriff instead of to a lord.

concurrent writ. A duplicate of an original writ (esp. a summons), issued either at the same time as the original writ or at any time while the original writ is valid.

counterpart writ. A copy of an original writ, to be sent to a court in another county where the defendant is located.

extraordinary writ. A writ issued by a court exercising unusual or discretionary power. • Examples are certiorari, habeas corpus, mandamus, and prohibition. — Also termed prerogative writ. [Cases: Courts 207.]

ground writ. Hist. A writ issued in a county having venue of an action in order to allow a writ of *capias ad satisfaciendum* or of *fieri facias* to be executed in a county where the defendant or the defendant's property was found. • These two writs could not be executed in a county other than the county having venue of the action until a ground writ and then a *testatum* writ were first issued. This requirement was abolished in 1852. Cf. TESTATUM.

judicial writ. 1. A writ issuing from the court to which the original writ was returnable; a writ issued under the private seal of the court and not under the great seal of England. Cf. original writ. 2. Any writ issued by a court.

junior writ. A writ issued at a later time than a similar writ, such as a later writ issued by a different party or a later writ on a different claim against the same defendant.

optional writ. At common law, an original writ issued when the plaintiff seeks specific damages, such as payment of a liquidated debt. • The writ commands the defendant either to do a

specified thing or to show why the thing has not been done.

original writ. A writ commencing an action and directing the defendant to appear and answer. • In the United States, this writ has been largely superseded by the summons. At common law, this type of writ was a mandatory letter issuing from the court of chancery under the great seal, and in the king's name, directed to the sheriff of the county where the injury was alleged to have occurred, containing a summary statement of the cause of complaint, and requiring the sheriff in most cases to command the defendant to satisfy the claim or else appear in court to account for not satisfying it. — Sometimes shortened to original. See SUMMONS. [Cases: Process 8. C.J.S. Process § 12.]

patent writ (pay-t<<schwa>>nt). Hist. An open writ; one not closed or sealed up. Cf. close writ.

peremptory writ (p<<schwa>>r-emp-t<<schwa>>-ree). At common law, an original writ issued when the plaintiff seeks only general damages, as in an action for trespass. • The writ, which is issued only after the plaintiff gives security for costs, directs the sheriff to have the defendant appear in court. [Cases: Mandamus 179. C.J.S. Mandamus § 376.]

pluries writ. See PLURIES.

prerogative writ. See extraordinary writ.

testatum writ (tes-tay-t<<schwa>>m). See TESTATUM.

vicontiel writ (vI-kon-tee-<<schwa>>l). Hist. A writ triable in the county court. • In the 13th–14th centuries, civil litigation could originate in the county court either by oral plaint or by a writ from the Chancery ordering the sheriff to do justice in a case. The writ that began such a proceeding was called vicontiel because it was addressed to the sheriff. See VICONTIEL(2).

“Vicontiel writs were of two sorts, the one founded on Torts, the other on Contracts. The vicontiel writs adapted for torts, were those of trespass, replegiari facias, nuisance, and others of the like nature; and those of matters of contract were called writs of justices, which was a command to the sheriff to do justice between the parties ....” 1 George Crompton, *Practice Common-Placed: Rules and Cases of Practice in the Courts of King's Bench and Common Pleas* vii–viii (3d ed. 1787).

writ of capias. See CAPIAS.

#### WRIT DE HAERETICO COMBURENDO

writ de haeretico comburendo. See DE HAERETICO COMBURENDO.

#### WRITE-DOWN

write-down, vb. Accounting. To transfer a portion of the cost of an asset to an expense account because the asset's value has decreased.

#### WRITE OFF

write off, vb. To remove (an asset) from the books, esp. as a loss or expense < the partnership

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wrote off the bad debt>. See TAX WRITE-OFF. — write-off,n.

#### WRITER

writer.Securities. 1. A person or institution that sells securities or futures option contracts. 2. See insurance underwriter (1) under UNDERWRITER.

#### WRITER OF THE TALLIES

writer of the tallies.English law. An officer of the Exchequer who writes on the tallies the letters of tellers' bills. See TALLY.

#### WRITER TO THE SIGNET

Writer to the Signet.Scots law. 1.Hist. A member of the College of Justice, founded in 1532. 2. A member of an Edinburgh society of solicitors who hold a few special privileges in the preparation of official documents.

#### WRITE-UP

write-up,n.1. A memorandum of a conference between an employer and an employee, usu. held to discuss the employee's poor work performance or a disciplinary action against the employee. 2. A publication (such as a newspaper article) about a particular person, thing, or event.

write-up,vb. Accounting. To increase the valuation of an asset in a financial statement to reflect current value. • With a few minor exceptions, this is generally not permitted.

#### WRITING

writing,n. Any intentional recording of words in a visual form, whether in the form of handwriting, printing, typewriting, or any other tangible form.

#### WRITING OBLIGATORY

writing obligatory,n. A bond; a written obligation, as technically described in a pleading.

#### WRIT OF AD QUOD DAMNUM

writ of ad quod damnum.See AD QUOD DAMNUM.

#### WRIT OF AIEL

writ of aiel (ay-<<schwa>>l). See AIEL(2).

#### WRIT OF ASSISTANCE

writ of assistance. 1. A writ to enforce a court's decree transferring real property, the title of which has been previously adjudicated. [Cases: Assistance, Writ of 1. C.J.S. Assistance, Writ of § 2.] 2.Hist. A writ issued by the Court of Exchequer ordering the sheriff to assist in collecting a debt owed the Crown. 3.Hist. In colonial America, a writ issued by a superior colonial court authorizing an officer of the Crown to enter and search any premises suspected of containing contraband. • The attempted use of this writ in Massachusetts — defeated in 1761 — was one of

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the acts that led to the American Revolution.

**WRIT OF ASSOCIATION**

writ of association.Hist. English law. A writ whereby certain persons (usu. the clerk of assize and subordinate officers) were directed to associate themselves with the justices and serjeants so that there would be an adequate supply of commissioners for the assizes.

**WRIT OF ATTACHMENT**

writ of attachment.See ATTACHMENT(3).

**WRIT OF AUDITA QUERELA**

writ of audita querela.See AUDITA QUERELA.

**WRIT OF CAPIAS****WRIT OF CAPIAS AD RESPONDENDUM**

writ of capias ad respondendum.See CAPIAS.

**WRIT OF CAPIAS AD SATISFACIENDUM**

writ of capias ad satisfaciendum.See CAPIAS.

**WRIT OF CERTIORARI**

writ of certiorari.See CERTIORARI.

**WRIT OF CONSPIRACY**

writ of conspiracy.Hist. A writ against one who conspired to injure the plaintiff, esp. by indicting the plaintiff for treason or felony. • Under common law, all other circumstances of conspiracy were actions on the case. [Cases: Conspiracy 15. C.J.S. Conspiracy § 24.]

**WRIT OF CONSULTATION**

writ of consultation.An extraordinary writ issued by an appellate court ordering a lower court to proceed in a matter that the lower court previously refused to hear. Cf. PROHIBITION(2).

**WRIT OF CORAM NOBIS**

writ of coram nobis.See CORAM NOBIS.

**WRIT OF CORAM VOBIS**

writ of coram vobis.See CORAM VOBIS.

**WRIT OF COURSE**

writ of course.A writ issued as a matter of course or granted as a matter of right. — Also termed writ of right; breve de cursu.

**WRIT OF COVENANT**

writ of covenant.Hist. A writ for one claiming damages as a result of a breach of a promise under seal or other covenant. — Also termed *breve de conventionne* (breev orbree-vee dee k<<schwa>>n-ven-shee-oh-nee).

“The writ of covenant (*breve de conventionne*) is not mentioned by Glanvill; but it appears within a short time after the publication of his book and already in the early years of Henry III. It can be had ‘as of course,’ at all events when the tenement that is in question is of small value. Before Henry’s death it has become a popular writ .... The great majority of actions of covenant are brought merely in order that they may be compromised. We doubt whether any principle was involved in the choice; but may infer that the procedure instituted by this writ was cheap and expeditious for those who wished to get to their final concord.” 2 Frederick Pollock & Frederic W. Maitland, *The History of English Law Before the Time of Edward I* 216–17 (2d ed. 1899).

#### WRIT OF DEBT

writ of debt.See DEBT(4).

#### WRIT OF DECEIT

writ of deceit.Hist. A writ against one who deceives and damages another by acting in the other’s name.

#### WRIT OF DELIVERANCE

writ of deliverance.See DELIVERANCE(3).

#### WRIT OF DETINUE

writ of detinue.A writ in an action for detinue. See DETINUE. [Cases: Detinue 1. C.J.S. Detinue § 1.]

#### WRIT OF DOWER

writ of dower. 1.DE DOTE UNDE NIHIL HABET. 2. A widow’s writ of right of dower providing her the remainder of the dower to which she is entitled after part of it had been assigned by the tenant. [Cases: Dower and Curtesy 70.1. C.J.S. Dower §§ 96–103, 108, 169–170.]

#### WRIT OF EJECTMENT

writ of ejectment.The writ in an action of ejectment for the recovery of land. See EJECTMENT. [Cases: Ejectment 120. C.J.S. Ejectment § 131.]

#### WRIT OF ELEGIT

writ of elegit.See ELEGIT.

#### WRIT OF ENTRY

writ of entry.A writ that allows a person wrongfully dispossessed of real property to enter and retake the property.

#### WRIT OF ERROR

writ of error. 1. A writ issued by an appellate court directing a lower court to deliver the record in the case for review. Cf. ASSIGNMENT OF ERROR. [Cases: Appeal and Error 5, 398. C.J.S. Appeal and Error §§ 9–12, 18, 356, 724.]

“The writ of error is the most common of all the forms of remedial process available to an unsuccessful party after a final determination of the merits of the action, and is in common use in this country at the present time, where the common-law modes of procedure are followed. Its object ... is to obtain a reversal of the judgment, either by reason of some error in fact affecting the validity and regularity of the legal decision itself, or on account of some mistake or error in law, apparent upon the face of the record, from which the judgment appears to have been given for the wrong party.” Benjamin J. Shipman, *Handbook of Common-Law Pleading* § 337, at 538 (Henry Winthrop Ballantine ed., 3d ed. 1923).

writ of error coram nobis. See CORAM NOBIS.

writ of error coram vobis. See CORAM VOBIS.

2.Hist. A writ issued by a chancery court, at the request of a party who was unsuccessful at trial, directing the trial court either to examine the record itself or to send it to another court of appellate jurisdiction to be examined, so that some alleged error in the proceedings may be corrected.

#### WRIT OF ESCHEAT

writ of escheat.Hist. A writ allowing a lord to take possession of lands that had escheated to him. See ESCHEAT(1).

#### WRIT OF ESTREPEMENT

writ of estrepement (e-streep-m<<schwa>>nt). See DE ESTREPAMENTO.

#### WRIT OF EXECUTION

writ of execution. See EXECUTION(4).

#### WRIT OF EXIGENT

writ of exigent. See EXIGENT.

#### WRIT OF EXIGI FACIAS

writ of exigi facias. See EXIGI FACIAS.

#### WRIT OF EXTENT

writ of extent. See EXTENT(2).

#### WRIT OF FALSE JUDGMENT

writ of false judgment. See FALSE JUDGMENT.

#### WRIT OF FIERI FACIAS

writ of fieri facias. See FIERI FACIAS.

#### WRIT OF FORMEDON

writ of formedon. See FORMEDON.

#### WRIT OF HABEAS CORPUS

writ of habeas corpus. See HABEAS CORPUS.

#### WRIT OF HABERE FACIAS POSSESSIONEM

writ of habere facias possessionem. See HABERE FACIAS POSSESSIONEM.

#### WRIT OF HABERE FACIAS SEISINAM

writ of habere facias seisinam. See HABERE FACIAS SEISINAM.

#### WRIT OF INJUNCTION

writ of injunction. See INJUNCTION.

#### WRIT OF INQUIRY

writ of inquiry. Hist. A writ ordering the sheriff to empanel a jury and act as judge in a trial held to determine the amount of damages suffered by a plaintiff who has won a default judgment on an unliquidated claim. [Cases: Damages 197. C.J.S. Damages § 324.]

#### WRIT OF LATITAT

writ of latitat. See LATITAT.

#### WRIT OF LEVARI FACIAS

writ of levare facias. See LEVARI FACIAS.

#### WRIT OF MAINPRISE

writ of mainprise. See MAINPRISE(3).

#### WRIT OF MANDAMUS

writ of mandamus. See MANDAMUS.

#### WRIT OF MANDATE

writ of mandate. See MANDATE(2).

#### WRIT OF MESNE

writ of mesne (meen). See DE MEDIO.

#### WRIT OF MESNE PROCESS

writ of mesne process. See mesne process under PROCESS.

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**WRIT OF MONSTRAVUNT**

writ of monstraverunt. See MONSTRAVERUNT.

**WRIT OF NE EXEAT**

writ of ne exeat. See NE EXEAT.

**WRIT OF PERAMBULATION**

writ of perambulation. Hist. A common-law writ issued by agreement of both parties when they are in doubt about the bounds of their respective properties, directing the sheriff to walk the jury around the property to set the boundaries with certainty. See PERAMBULATION.

**WRIT OF POSSESSION**

writ of possession. A writ issued to recover the possession of land.

**WRIT OF PRAECIPE**

writ of praecipe. See PRAECIPE(1).

**WRIT OF PREVENTION**

writ of prevention. A writ to prevent the filing of a lawsuit. See QUIA TIMET.

**WRIT OF PRIVILEGE**

writ of privilege. Hist. A writ to enforce or maintain a privilege; esp., a writ to secure the release of a person who, though entitled to privilege from arrest, is arrested in a civil suit.

**WRIT OF PROBABLE CAUSE**

writ of probable cause. See CERTIFICATE OF APPEALABILITY.

**WRIT OF PROCLAMATION**

writ of proclamation. Hist. A writ, issued at the time an exigent was issued, ordering the sheriff of the county of a defendant's residence to make three proclamations of outlawry in a public and notorious place a month before the outlawry is declared. See OUTLAW.

**WRIT OF PROHIBITION**

writ of prohibition. See PROHIBITION(2).

**WRIT OF PROTECTION**

writ of protection. 1. A writ to protect a witness in a judicial proceeding who is threatened with arrest. 2. A writ exempting anyone in the Crown's service from arrest in a civil proceeding for a year and a day.

**WRIT OF QUARE IMPEDIT**

writ of quare impedit. See QUARE IMPEDIT.



**WRIT OF QUOMINUS**

writ of quominus. See QUOMINUS.

**WRIT OF QUO WARRANTO**

writ of quo warranto. See QUO WARRANTO(1).

**WRIT OF REBELLION**

writ of rebellion. See COMMISSION OF REBELLION.

**WRIT OF RECAPTION**

writ of recaption. Hist. A writ allowing a plaintiff to recover goods and damages from a defendant who makes a second distress while a replevin action for a previous distress is pending. See RECAPTION.

**WRIT OF REPLEVIN**

writ of replevin. See REPLEVIN(2).

**WRIT OF RESTITUTION**

writ of restitution. 1. The process of enforcing a civil judgment in a forcible-entry-and-detainer action or enforcing restitution on a verdict in a criminal prosecution for forcible entry and detainer. [Cases: Forcible Entry and Detainer 41.]

“In some states, following the British statutes, the prosecutor may have a writ of restitution for the premises immediately on the rendition of a verdict of guilty on an indictment for forcible entry and detainer; and the operation of such writ of restitution is not suspended by an appeal by the defendant.” 35 Am. Jur. 2d Forcible Entry and Detainer § 61, at 931 (1967).

2. A common-law writ issued when a judgment is reversed, whereby all that was lost as a result of the judgment is restored to the prevailing party. [Cases: Appeal and Error 1179. C.J.S. Appeal and Error § 934.]

**WRIT OF REVIEW**

writ of review. A general form of process issuing from an appellate court to bring up for review the record of the proceedings in the court below; the common-law writ of certiorari. [Cases: Courts 207.1; Review 1.C.J.S. Review § 2.]

**WRIT OF RIGHT**

writ of right. See WRIT OF COURSE.

**WRIT OF SECOND DELIVERANCE**

writ of second deliverance. See DELIVERANCE.

**WRIT OF SEQUESTRATION**

writ of sequestration.A writ ordering that a court be given custody of something or that something not be taken from the jurisdiction, such as the collateral for a promissory note. • Such a writ is usu. issued during litigation, often so that the object will be available for attachment or execution after judgment. [Cases: Sequestration 13. C.J.S. Sequestration § 14.]

#### WRIT OF SUMMONS

writ of summons.English law. A writ by which, under the Judicature Acts of 1873–1875, all actions were commenced. See SUMMONS.

#### WRIT OF SUPERSEDEAS

writ of supersedeas.See SUPERSEDEAS.

#### WRIT OF SUPERVISORY CONTROL

writ of supervisory control.A writ issued to correct an erroneous ruling made by a lower court either when there is no appeal or when an appeal cannot provide adequate relief and the ruling will result in gross injustice. [Cases: Courts 207.1.]

#### WRIT OF THREATS

writ of threats.See SECURITATE PACIS.

#### WRIT OF TOLT

writ of tolt (tohlt). See TOLT.

#### WRIT OF TRIAL

writ of trial.Hist. English law. By the Civil Procedure Act of 1835, a writ ordering an action brought in a superior court to be tried in an inferior court or before the undersheriff. • It was superseded by the County Courts Act of 1867, ch. 142, § 6 authorizing a defendant, in certain cases, to obtain an order that an action is to be tried in a county court. St. 3 & 4 Will. 4, ch. 42.

#### WRIT OF VENIRE FACIAS

writ of venire facias.See VENIRE FACIAS.

#### WRIT OF WASTE

writ of waste.Hist. A writ to recover damages against a tenant who committed waste. See WASTE(1). [Cases: Waste 14. C.J.S. Waste § 23.]

“After waste had been actually committed, the ancient corrective remedy, in a court of common law, was by a writ of waste for the recovery of the place wasted, and treble damages as a compensation for the injury done to the inheritance.” 78 Am. Jur. 2d Waste § 29, at 417 (1975).

#### WRIT OF WITHERNAM

writ of withernam.See capias in withernam under WITHERNAM.

#### WRITPRO RETORNO HABENDO

writ pro retorno habendo (proh ri-tor-noh h<<schwa>>-ben-doh), n.[Law Latin “for return to be had”] Hist. A writ ordering the return of goods to a defendant who, upon the plaintiff's default, obtained a favorable judgment in a replevin action.

#### WRIT SYSTEM

writ system.The common-law procedural system under which plaintiff commenced an action by obtaining the appropriate type of original writ.

#### WRITTEN CONTRACT

written contract.See CONTRACT.

#### WRITTEN DESCRIPTION

written description.See DESCRIPTION(5).

#### WRITTEN DIRECTIVE

written directive.See ADVANCE DIRECTIVE(2).

#### WRITTEN LAW

written law.Statutory law, together with constitutions and treaties, as opposed to judge-made law. — Also termed *jus scriptum*; *lex scripta*.

#### WRITTEN TESTIMONY

written testimony.See TESTIMONY.

#### WRITTEN WARRANTY

written warranty.See WARRANTY(2).

#### WRONG

wrong,n. Breach of one's legal duty; violation of another's legal right. [Cases: Torts 1. C.J.S. Torts §§ 2–7.] — wrong,vb.

“A wrong may be described, in the largest sense, as anything done or omitted contrary to legal duty, considered in so far as it gives rise to liability.” Frederick Pollock, *A First Book of Jurisprudence* 68 (1896).

“A wrong is simply a wrong act — an act contrary to the rule of right and justice. A synonym of it is injury, in its true and primary sense of *injuria* (that which is contrary to *jus*) ....” John Salmond, *Jurisprudence* 227 (Glanville L. Williams ed., 10th ed. 1947).

civil wrong.A violation of noncriminal law, such as a tort, a breach of contract or trust, a breach of statutory duty, or a defect in performing a public duty; the breach of a legal duty treated as the subject matter of a civil proceeding. Cf. CRIME.

continuing wrong.An ongoing wrong that is capable of being corrected by specific enforcement. • An example is the nonpayment of a debt.

intentional wrong. A wrong in which the mens rea amounts to intention, purpose, or design. — Also termed willful wrong.

legal wrong. An act that is a violation of the law; an act authoritatively prohibited by a rule of law.

moral wrong. An act that is contrary to the rule of natural justice. — Also termed natural wrong.

personal wrong. An invasion of a personal right.

positive wrong. A wrongful act willfully committed.

private wrong. An offense committed against a private person and dealt with at the instance of the person injured.

public wrong. An offense committed against the state or the community at large, and dealt with in a proceeding to which the state is itself a party. • Not all public wrongs are crimes. For example, a person that breaches a contract with the government commits a public wrong, but the offense is a civil one, not a criminal one.

real wrong. An injury to the freehold.

transitory wrong. A wrong that, once committed, belongs to the irrevocable past. • An example is defamation.

willful wrong. See intentional wrong.

wrong of negligence. A wrong in which the mens rea is a form of mere carelessness, as opposed to wrongful intent.

wrong of strict liability. A wrong in which a mens rea is not required because neither wrongful intent nor culpable negligence is a necessary condition of responsibility.

#### WRONGDOER

wrongdoer, n. One who violates the law <both criminals and tortfeasors are wrongdoers>. — wrongdoing, n.

#### WRONGFUL

wrongful, adj. 1. Characterized by unfairness or injustice <wrongful military invasion>. 2. Contrary to law; unlawful <wrongful termination>. 3. (Of a person) not entitled to the position occupied <wrongful possessor>. — wrongfully, adv.

#### WRONGFUL ACT

wrongful act. See WRONGFUL CONDUCT.

#### WRONGFUL ADOPTION

wrongful adoption. 1. An adoption in which the adoption agency fails to provide adoptive

parents with full or accurate information regarding the child's physical or psychological background. • The adoptive parents normally do not seek to nullify the adoption. Rather, they seek damages, usu. for medical care and for emotional distress. 2. An adoptive parent's legal claim against an adoption agency for not fully or accurately disclosing the child's physical or psychological background. Cf. ABROGATION OF ADOPTION.

#### WRONGFUL-BIRTH ACTION

wrongful-birth action.A lawsuit brought by parents against a doctor for failing to advise them prospectively about the risks of their having a child with birth defects. [Cases: Health 687.]

#### WRONGFUL-CONCEPTION ACTION

wrongful-conception action.See WRONGFUL-PREGNANCY ACTION.

#### WRONGFUL CONDUCT

wrongful conduct.See CONDUCT.

#### WRONGFUL-DEATH ACTION

wrongful-death action.A lawsuit brought on behalf of a decedent's survivors for their damages resulting from a tortious injury that caused the decedent's death. — Also termed death action; death case. Cf. SURVIVAL ACTION. [Cases: Death 7–12. C.J.S. Aeronautics and Aerospace § 273; Death §§ 17–31, 102.]

#### WRONGFUL-DEATH STATUTE

wrongful-death statute.A statute authorizing a decedent's personal representative to bring a wrongful-death action for the benefit of certain beneficiaries. — Formerly also termed death-damage statute. [Cases: Death 11. C.J.S. Death § 20.]

#### WRONGFUL DISCHARGE

wrongful discharge.See DISCHARGE(7).

#### WRONGFUL-DISCHARGE ACTION

wrongful-discharge action.A lawsuit brought by an ex-employee against the former employer, alleging that the termination of employment violated a contract or was illegal. — Also termed wrongful-termination action. [Cases: Master and Servant 30. C.J.S. Employer–Employee Relationship §§ 35, 38–40, 42–43, 56, 60.]

#### WRONGFUL DISHONOR

wrongful dishonor,n. A refusal to accept or pay (a negotiable instrument) when it is properly presented and is payable. Cf. DISHONOR.

#### WRONGFUL-EVICTION ACTION

wrongful-eviction action.A lawsuit brought by a former tenant or possessor of real property against one who has put the plaintiff out of possession, alleging that the eviction was illegal.

**WRONGFUL GARNISHMENT**

wrongful garnishment. See GARNISHMENT.

**WRONGFUL LEVY**

wrongful levy. See LEVY.

**WRONGFUL-LIFE ACTION**

wrongful-life action. A lawsuit brought by or on behalf of a child with birth defects, alleging that but for the doctor-defendant's negligent advice, the parents would not have conceived the child or, if they had, would have aborted the fetus to avoid the pain and suffering resulting from the child's congenital defects. • Most jurisdictions reject these claims. [Cases: Health 687.]

**WRONGFUL-PREGNANCY ACTION**

wrongful-pregnancy action. A lawsuit brought by a parent for damages resulting from a pregnancy following a failed sterilization. — Also termed wrongful-conception action. [Cases: Health 686.]

**WRONGFUL PROCESS**

wrongful process. See ABUSE OF PROCESS.

**WRONGFUL-TERMINATION ACTION**

wrongful-termination action. See WRONGFUL-DISCHARGE ACTION.

**WRONG OF NEGLIGENCE**

wrong of negligence. See WRONG.

**WRONG OF STRICT LIABILITY**

wrong of strict liability. See WRONG.

**WRONG VERDICT**

wrong verdict. See verdict contrary to law under VERDICT.

**WTO**

WTO. abbr. WORLD TRADE ORGANIZATION.

**WYTE**

wyte (wIt). Hist. 1. An immunity from an amercement. See AMERCEMENT. 2. WITE.

**Y2K WARRANTY**

Y2K warranty. abbr. Year 2000 warranty; a warranty that software, hardware, or a product having computer hardware or software components will function properly on and after January 1, 2000. • These warranties were common in the late 1990s. [Cases: Sales 284(1). C.J.S. Sales §§

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251, 253, 257.]

**YEAR 2000 WARRANTY**

Year 2000 warranty. See Y2K WARRANTY.

**YEAR, DAY, AND WASTE**

year, day, and waste. Hist. A right of the Crown to the profits and waste for a year and a day of the land of persons convicted of petty treason or felony (unless the lord made redemption), after which the Crown had to restore the property to the lord of the fee. The right was abrogated by the Corruption of Blood Act of 1814. — Also termed (in Law French) ann, jour, et wast; (in Law Latin) annus, dies, et vastum.

**YICK WO<TT> DOCTRINE**

Yick Wo doctrine (yik woh). The principle that a law or ordinance giving a person or entity absolute discretion to grant or deny permission to carry on a lawful business violates the 14th Amendment to the U.S. Constitution. *Yick Wo v. Hopkins*, 118 U.S. 356, 6 S.Ct. 1064 (1886).

**YOUR WITNESS**

your witness. See TAKE THE WITNESS.

**ZEALOUS WITNESS**

zealous witness. See WITNESS.