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### OAR

OAR.abbr. Office of Oceanic and Atmospheric Research. See NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION .

### OASDHI

OASDHI.abbr. Old Age, Survivors, Disability, and Health Insurance. See OLD-AGE AND SURVIVORS' INSURANCE .

### OASDI

OASDI.abbr. Old Age, Survivors, and Disability Insurance. See OLD-AGE AND SURVIVORS' INSURANCE .

### OASI

OASI.abbr. OLD-AGE AND SURVIVORS' INSURANCE.

### OATH

oath. 1. A solemn declaration, accompanied by a swearing to God or a revered person or thing, that one's statement is true or that one will be bound to a promise. • The person making the oath implicitly invites punishment if the statement is untrue or the promise is broken. The legal effect of an oath is to subject the person to penalties for perjury if the testimony is false. [Cases: Oath 1; Witnesses 227. C.J.S. Oaths and Affirmations §§ 1–2, 8–11; Witnesses § 394.] 2. A statement or promise made by such a declaration. 3. A form of words used for such a declaration. 4. A formal declaration made solemn without a swearing to God or a revered person or thing; AFFIRMATION.

“The word ‘oath’ (apart from its use to indicate a profane expression) has two very different meanings: (1) a solemn appeal to God in attestation of the truth of a statement or the binding character of such a promise; (2) a statement or promise made under the sanction of such an appeal.” Rollin M. Perkins & Ronald N. Boyce, *Criminal Law* 515 (3d ed. 1982).

assertory oath (<<schwa>>-s<<schwa>>r-<<schwa>>-ree). An oath by which one attests to some factual matter, rather than making a promise about one's future conduct. • A courtroom witness typically takes such an oath.

corporal oath (kor-p<<schwa>>r-<<schwa>>l). An oath made solemn by touching a sacred object, esp. the Bible. — Also termed solemn oath; corporale sacramentum.

“Oath (Juramentum) Is a calling Almighty God to witness that the Testimony is true; therefore it is aptly termed Sacramentum, a Holy Band, a Sacred Tye, or Godly Vow. And it is called a Corporal Oath, because the party when he swears, toucheth with his right hand the Holy

Evangelists or Book of the New Testament.” Thomas Blount, *Nomo-Lexicon: A Law-Dictionary* (1670).

**decisive oath.** Civil law. An oath by a party in a lawsuit, used to decide the case because the party's adversary, not being able to furnish adequate proof, offered to refer the decision of the case to the party. — Also termed **decisory oath**.

**extrajudicial oath.** An oath that, although formally sworn, is taken outside a legal proceeding or outside the authority of law. — Also termed **nonjudicial oath**.

**false oath.** See **PERJURY**.

**judicial oath.** An oath taken in the course of a judicial proceeding, esp. in open court. [Cases: Witnesses 227. C.J.S. Witnesses § 394.]

**loyalty oath.** See **oath of allegiance**.

**nonjudicial oath.** 1. An oath taken out of court, esp. before an officer *ex parte*. — Also termed **voluntary oath**. 2. See **extrajudicial oath**.

**oath de calumnia.** See **oath of calumny**.

**oath ex officio** (eks <<schwa>>-fish-ee-oh). Hist. At common law, an oath under which a person accused of a crime swore to answer questions before an ecclesiastical court.

**oath in litem** (II-tem or -t<<schwa>>m). Civil law. An oath taken by a plaintiff in testifying to the value of the thing in dispute when there is no evidence of value or when the defendant has fraudulently suppressed evidence of value.

**oath of allegiance.** An oath by which one promises to maintain fidelity to a particular sovereign or government. • This oath is most often administered to a high public officer, to a soldier or sailor, or to an alien applying for naturalization. — Also termed **loyalty oath**; **test oath**.

**oath of calumny** (kal-<<schwa>>m-nee). Hist. An oath that a plaintiff or defendant took to attest to that party's good faith and to the party's belief that there was a *bona fide* claim. — Also termed **oath de calumnia**. See **CALUMNY**.

**oath of office.** An oath taken by a person about to enter into the duties of public office, by which the person promises to perform the duties of that office in good faith. [Cases: Officers and Public Employees 36(1). C.J.S. Officers and Public Employees § 59.]

**oath of supremacy.** Hist. English law. An oath required of those taking office, along with the oaths of allegiance and abjuration, declaring that the sovereign is superior to the church in ecclesiastical matters.

**oath purgatory.** See **purgatory oath**.

**oath suppletory.** See **suppletory oath**.

**pauper's oath.** An affidavit or verification of poverty by a person requesting public funds or services. See **poverty affidavit** under **AFFIDAVIT**; **IN FORMA PAUPERIS**. [Cases: Costs

132(6); Federal Civil Procedure 2734. C.J.S. Costs § 89.]

**promissory oath.**An oath that binds the party to observe a specified course of conduct in the future. • Both the oath of office and the oath of allegiance are types of promissory oaths. [Cases: Oath 1. C.J.S. Oaths and Affirmations §§ 1–2, 8–11.]

**purgatory oath.**An oath taken to clear oneself of a charge or suspicion. — Also termed oath purgatory.

**solemn oath.**See corporal oath.

**suppletory oath** (s<<schwa>>p-l<<schwa>>-tor-ee).1.Civil law. An oath administered to a party, rather than a witness, in a case in which a fact has been proved by only one witness. • In a civil-law case, two witnesses are needed to constitute full proof. See HALF-PROOF. 2. An oath administered to a party to authenticate or support some piece of documentary evidence offered by the party. — Also termed oath suppletory. [Cases: Evidence 354, 376. C.J.S. Evidence §§ 925, 934–939, 959–962.]

**test oath.**See oath of allegiance.

**voluntary oath.**See nonjudicial oath (1).

#### OATH AGAINST AN OATH

**oath against an oath.**See SWEARING MATCH.

#### OATH-HELPER

**oath-helper.** See COMPURGATOR.

#### OATH OF ABJURATION

**oath of abjuration.**See ABJURATION.

#### OATH OR AFFIRMATION CLAUSE

**Oath or Affirmation Clause.**The clause of the U.S. Constitution requiring members of Congress and the state legislatures, and all members of the executive or judicial branches — state or local — to pledge by oath or affirmation to support the Constitution. U.S. Const. art. VI, cl. 3. [Cases: Officers and Public Employees 36(1). C.J.S. Officers and Public Employees § 59.]

#### OATH-RITE

**oath-rite.** The form or ceremony used when taking an oath.

#### OATHWORTHY

**oathworthy,adj.** Legally capable of making an oath.

#### OBAERATUS

**obaeratus** (oh-b<<schwa>>-ray-t<<schwa>>s), adj. & n. [Latin] Roman law. 1.adj. Burdened with debt. 2.n. A debtor.

**OB CONTINENTIAM DELICTI**

ob continentiam delicti (ob kon-t<<schwa>>-nen-shee-<<schwa>>m d<<schwa>>-lik-t I). [Latin] On account of contiguity to the offense; being contaminated by association with something illegal.

**OB CONTINGENTIAM**

ob contingentiam (ob kon-tin-jen-shee-<<schwa>>m). [Latin] Hist. 1. On account of connection; by reason of similarity. • This phrase appeared when there was a close enough connection between two or more lawsuits to consolidate them. 2. In case of contingency.

**OB DEFECTUM HAEREDIS**

ob defectum haeredis (ob di-fek-t<<schwa>>m h<<schwa>>-ree-dis). [Law Latin] Hist. On account of a failure of heirs.

**OBEDIENCE**

obedience. Compliance with a law, command, or authority.

**OBEDIENTIAL OBLIGATION**

obediential obligation. See OBLIGATION.

**OB FAVOREM MERCATORUM**

ob favorem mercatorum (ob f<<schwa>>-vor-<<schwa>>m m<<schwa>>r-k<<schwa>>-tor-<<schwa>>m). [Latin] In favor of merchants.

**OBIIT**

obiit (oh-bee-it). [Latin] He died; she died.

**OBIIT SINE PROLE**

obiit sine prole (oh-bee-it sI-nee proh-lee alsosin-ay prohl). [Latin] He died without issue. — Abbr. o.si.ip.

**OBIT**

obit. 1. Archaic. A memorial service on the anniversary of a person's death. 2. A record or notice of a person's death; an obituary.

**OBITER**

obiter (oh-bit-<<schwa>>r), adv. [Latin “by the way”] Incidentally; in passing <the judge said, obiter, that a nominal sentence would be inappropriate>.

obiter, n. See OBITER DICTUM.

**OBITER DICTUM**

obiter dictum (ob-i-t<<schwa>>r dik-t<<schwa>>m). [Latin “something said in passing”] A

judicial comment made while delivering a judicial opinion, but one that is unnecessary to the decision in the case and therefore not precedential (although it may be considered persuasive). — Often shortened to dictum or, less commonly, obiter. Pl. obiter dicta. See DICTUM. Cf. HOLDING(1); RATIO DECIDENDI. [Cases: Courts 92. C.J.S. Courts §§ 142–143.]

“Strictly speaking an ‘obiter dictum’ is a remark made or opinion expressed by a judge, in his decision upon a cause, ‘by the way’ — that is, incidentally or collaterally, and not directly upon the question before the court; or it is any statement of law enunciated by the judge or court merely by way of illustration, argument, analogy, or suggestion.... In the common speech of lawyers, all such extrajudicial expressions of legal opinion are referred to as ‘dicta,’ or ‘obiter dicta,’ these two terms being used interchangeably.” William M. Lile et al., *Brief Making and the Use of Law Books* 304 (3d ed. 1914).

#### OBITER EX POST FACTO

obiter ex post facto (ob-i-t<<schwa>>r eks post fak-toh). A court's holding that, according to a later court, was expressed in unnecessarily broad terms. • Some authorities suggest that this is not, properly speaking, a type of obiter dictum at all.

#### OBJECT

object (ob-jekt), n.1. A person or thing to which thought, feeling, or action is directed <the natural object of one's bounty>. See NATURAL OBJECT.

object of a power. A person appointable by a donee. See POWER OF APPOINTMENT.

2. Something sought to be attained or accomplished; an end, goal, or purpose <the financial objects of the joint venture>.

object of an action. The legal relief that a plaintiff seeks; the remedy demanded or relief sought in a lawsuit. Cf. SUBJECT OF AN ACTION.

object of a statute. The aim or purpose of legislation; the end or design that a statute is meant to accomplish.

object (<<schwa>>b-jekt), vb.1. To state in opposition; to put forward as an objection <the prosecution objected that the defendant's discovery requests were untimely>.2. To state or put forward an objection, esp. to something in a judicial proceeding <the defense objected to the testimony on the ground that it was privileged>.[Cases: Federal Civil Procedure 2017; Trial 77. C.J.S. Trial §§ 220–221.] — objector, n.

#### OBJECTANT

objectant. See CONTESTANT.

#### OBJECT CODE

object code. Copyright. The machine-readable language compiled from a computer programmer's source code. • Object code is difficult to reverse-engineer, so publicly available software is always in this form. Object code is protected by copyright and patent laws. Because

people cannot read or understand it, object code is deposited with the U.S. Copyright Office more often than source code. Cf. SOURCE CODE.

## OBJECTION

objection,n.1. A formal statement opposing something that has occurred, or is about to occur, in court and seeking the judge's immediate ruling on the point. • The party objecting must usu. state the basis for the objection to preserve the right to appeal an adverse ruling. [Cases: Federal Civil Procedure 2017; Trial 77. C.J.S. Trial §§ 220–221.]

continuing objection.A single objection to all the questions in a given line of questioning. • A judge may allow a lawyer to make a continuing objection when the judge has overruled an objection applicable to many questions, and the lawyer wants to preserve the objection for the appellate record. — Also termed running objection. [Cases: Criminal Law 694; Trial 79. C.J.S. Trial § 222.]

general objection.An objection made without specifying any grounds in support of the objection. • A general objection preserves only the issue of relevancy. — Also termed broadside objection. [Cases: Trial 82. C.J.S. Trial §§ 209–211.]

speaking objection.An objection that contains more information (often in the form of argument) than needed by the judge to sustain or overrule it. • Many judges prohibit lawyers from using speaking objections, and sometimes even from stating the grounds for objections, because of the potential for influencing the jury.

specific objection.An objection that is accompanied by a statement of one or more grounds in support of the objection. [Cases: Trial 82, 83. C.J.S. Trial §§ 209–211, 223–224.]

2.Parliamentary law. A motion that suppresses a main motion, esp. one that will or may inflame controversy, immediately and without debate. • The motion, because it disposes of the main motion without any debate, usu. requires a supermajority. — Also termed question of consideration; objection to consideration of a question.“Objection to the consideration of a question is used when an original main motion is of a delicate or personal nature, or is contentious or inflammatory (such as sectarian, political, racial, etc.), or is irrelevant, unprofitable, or otherwise objectionable or discriminatory. The motion can be avoided altogether by instantly objecting to the consideration of the question.” George Demeter, *Demeter's Manual of Parliamentary Law and Procedure* 141 (1969).

3.Parliamentary law. A negative vote, esp. one that defeats a request for general consent.  
4.Patents. An examiner's action identifying a defect in the form of a patent application, usu. in the specification or a drawing. • An objection does not raise questions about the merit of the claims. An examiner might object, for instance, to a defective oath or to a trademark appearing on the drawings. Cf. REJECTION(4). [Cases: Patents 104. C.J.S. Patents §§ 145–147, 149–151, 173–175.]

## OBJECTIONABLE

objectionable,adj. Open to opposition, esp. adverse reason or contrary argument. — Also

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termed exceptionable.

#### OBJECTION IN POINT OF LAW

objection in point of law.A defensive pleading by which the defendant admits the facts alleged by the plaintiff but objects that they do not make out a legal claim. See DEMURRER. [Cases: Pleading 351. C.J.S. Pleading §§ 624–625.]

#### OBJECTION TO CONSIDERATION OF A QUESTION

objection to consideration of a question.See OBJECTION(2).

#### OBJECTIVE

objective,adj.1. Of, relating to, or based on externally verifiable phenomena, as opposed to an individual's perceptions, feelings, or intentions <the objective facts>.2. Without bias or prejudice; disinterested <because her son was involved, she felt she could not be objective>. Cf. SUBJECTIVE.

#### OBJECTIVE BUT-FOR TEST

objective but-for test.See BUT-FOR MATERIALITY.

#### OBJECTIVE ENTRAPMENT

objective entrapment.See ENTRAPMENT.

#### OBJECTIVE ETHICS

objective ethics.See MORAL ABSOLUTISM.

#### OBJECTIVE IMPOSSIBILITY

objective impossibility.See IMPOSSIBILITY.

#### OBJECTIVE MEANING

objective meaning.See MEANING.

#### OBJECTIVE METHOD

objective method.See HYPOTHETICAL-PERSON DEFENSE.

#### OBJECTIVE NOVATION

objective novation.See NOVATION.

#### OBJECTIVE STANDARD

objective standard.See STANDARD.

#### OBJECTIVE THEORY OF CONTRACT

objective theory of contract.The doctrine that a contract is not an agreement in the sense of a subjective meeting of the minds but is instead a series of external acts giving the objective

semblance of agreement. — Often shortened to objective theory. Cf. SUBJECTIVE THEORY OF CONTRACT; MEETING OF THE MINDS . [Cases: Contracts 15, 147(1). C.J.S. Contracts §§ 35–36, 38, 308; Parent and Child § 178.]

#### OBJECT OF A POWER

object of a power. See permissible appointee under APPOINTEE.

#### OBJECT OF A RIGHT

object of a right. The thing in respect of which a right exists; the subject matter of a right. — Also termed subject of a right. See SUBJECT OF A RIGHT.

#### OBJECT OFFENSE

object offense. See OFFENSE(1).

#### OBJECT OF THE POWER

object of the power. See permissible appointee under APPOINTEE.

#### OBJECT OF THE POWER OF APPOINTMENT

object of the power of appointment. See permissible appointee under APPOINTEE.

#### OBJURGATRIX

objurgatrix (ob-j<<schwa>>r-gay-triks). Hist. A common scold. See SCOLD.

#### OBLATIO

oblatio (ah-blai-shee-oh), n. [Latin] Roman law. A tender of payment or performance due. Pl. oblationes (ah-blai-shee-oh-nee-z).

#### OBLATION

oblation (ah-blai-sh<<schwa>>n). An offering or sacrifice, esp. one in a religious or ritualistic ceremony. — oblatory, adj.

#### OBLIGANT

obligant (ob-l<<schwa>>-g<<schwa>>nt). Scots law. A debtor in an obligation; OBLIGOR.

#### OBLIGATE

obligate, vb. 1. To bind by legal or moral duty. 2. To commit (funds, property, etc.) to meet or secure an obligation.

#### OBLIGATIO

obligatio (ah-bl<<schwa>>-gay-shee-oh), n. [Latin] Roman law. An obligation; a legal bond. Pl. oblationes (ah-bl<<schwa>>-gay-shee-oh-nee-z).

obligatio civilis (ah-bl<<schwa>>-gay-shee-oh s<<schwa>>-vi-lis). [Latin “civil obligation”]



Roman law. 1. An obligation recognized under jus civile as opposed to one recognized only under jus honorarium. 2. A legally enforceable obligation, such as one by contract.

obligatio ex contractu (ah-bl<<schwa>>-gay-shee-oh eks k<<schwa>>n-trak-t [y]oo). Roman law. [Latin “contractual obligation”] A contractual obligation.

obligatio ex delicto (ah-bl<<schwa>>-gay-shee-oh eks d<<schwa>>-lik-toh). [Latin “tortious obligation”] Roman law. An obligation arising from a wrongdoing against the person or property of another; an obligation enforceable in tort. — Also termed obligatio ex maleficio (mal-<<schwa>>-fish-ee-oh).

obligatio honoraria (ah-bl<<schwa>>-gay-shee-oh [h]on-<<schwa>>-rair-ee-<<schwa>>). Roman law. An obligation that the praetor or an aedile declares actionable.

obligatio litteris (ah-bl<<schwa>>-gay-shee-oh lit-<<schwa>>r-is). [Latin “written obligation”] 1. Hist. A written contract. — Also termed obligatio litterarum. 2. Scots law. A contract that must be constituted in formal writing. — Also spelled obligatio literis. 3. Roman law. Literal contract, strictly comprising only the nomen transcripticum. See NOMEN TRANSCRIPTICUM.

obligatio naturalis (ah-bl<<schwa>>-gay-shee-oh nach-<<schwa>>-ray-lis). [Latin “natural obligation”] Roman law. An obligation that is not legally enforceable, although it may produce legal effects; an obligation deriving only from the law of nature.

obligatio quasi ex contractu (ah-bl<<schwa>>-gay-shee-oh kway-sI [or -zI] eks k<<schwa>>n-trak-t[y]oo). [Latin “obligation from quasi-contract”] Roman law. An obligation arising between two persons who have not contracted with each other but have formed a relationship similar to a contractual one, or where a payment is made in error; a quasi-contractual obligation. See implied-in-law contract under CONTRACT.

obligatio quasi ex delicto (ah-bl<<schwa>>-gay-shee-oh kway-sI [or -zI] eks d<<schwa>>-lik-toh). [Latin “obligation from something resembling a tort”] Roman law. An obligation arising from a wrong that is not covered by an obligatio ex delicto but that nonetheless creates liability. — Also termed obligatio quasi ex maleficio (mal-<<schwa>>-fish-ee-oh).

obligatio verborum (ah-bl<<schwa>>-gay-shee-oh v<<schwa>>r-bor-<<schwa>>m). [Latin “a verbal obligation”] Roman law. An obligation arising from a solemn question and answer using specific words.

## OBLIGATION

obligation, n. 1. A legal or moral duty to do or not do something. • The word has many wide and varied meanings. It may refer to anything that a person is bound to do or forbear from doing, whether the duty is imposed by law, contract, promise, social relations, courtesy, kindness, or morality. 2. A formal, binding agreement or acknowledgment of a liability to pay a certain amount or to do a certain thing for a particular person or set of persons; esp., a duty arising by contract. — Also termed (in sense 2) civil obligation. See DUTY(1); LIABILITY(1). [Cases: Contracts 1. C.J.S. Contracts §§ 2–3, 9, 12.] 3. Civil law. A legal relationship in which one person, the obligor, is bound to render a performance in favor of another, the obligee. La. Civ. Code art. 1756.

“[I]n English-speaking countries an unfortunate habit has arisen of using ‘obligation’ in a lax manner as co-extensive with duties of every kind.” Frederick Pollock, *A First Book of Jurisprudence* 82 (1896).

“Obligation in its popular sense is merely a synonym for duty. Its legal sense, derived from Roman law, differs from this in several respects. In the first place, obligations are merely one class of duties, namely, those which are the correlatives of rights in personam. An obligation is the vinculum juris, or bond of legal necessity, which binds together two or more determinate individuals.... Secondly, the term obligatio is in law the name, not merely of the duty, but also of the correlative right. It denotes the legal relation or vinculum juris in its entirety, including the right of the one party, no less than the liability of the other. Looked at from the point of view of the person entitled, an obligation is a right; looked at from the point of view of the person bound, it is a duty.... An obligation, therefore, may be defined as a proprietary right in personam or a duty which corresponds to such a right.” John Salmond, *Jurisprudence* 460 (Glanville L. Williams ed., 10th ed. 1947).

“[I]n its more general acceptance, the word ‘obligation’ means something that the law or morals command a person to do, a command that is made effective by the imposition of a sanction if the person fails to obey or comply. When given that reference, the word ‘obligation’ is made synonymous with the word ‘duty.’ In that sense it is said, for example, that all citizens of a certain age are under an obligation to fulfill their military duties ....

“In another sense, the word ‘obligation’ means an instrument in writing, however informal, whereby one party contracts with another for the payment of a sum of money. In commercial law, for example, the word ‘obligation’ may mean a negotiable instrument ....“In the technical terminology of the civil codes, however, the word ‘obligation’ means a legal bond that binds two persons in such a way that one of them, the creditor or obligee, is entitled to demand from the other, the debtor or obligor, a certain performance.” Saul Litvinoff, *5 Louisiana Civil Law Treatise: The Law of Obligations* 1–2 (2d ed. 2001).absolute obligation.An obligation requiring strict fulfillment according to the terms of the engagement, without any alternatives to the obligor.

accessory obligation.An obligation that is incidental to another obligation. • For example, a mortgage to secure payment of a bond is an accessory obligation. The primary obligation is to pay the bond itself. Cf. primary obligation (1).

alternative obligation.An obligation that can be satisfied in at least two different ways, at the choice of the obligor. — Also termed disjunctive obligation.

bifactoral obligation (bI-fak-t<<schwa>>r-<<schwa>>l). An obligation created by two parties.

civil obligation.See conventional obligation.

community obligation.A debt or other obligation incurred by either spouse after marriage in a community-property state. • Such an obligation is presumed to be an obligation of the community and not of the individual spouse.

conditional obligation. An obligation that depends on an uncertain event. [Cases: Contracts 218. C.J.S. Contracts §§ 355, 358.]

conjunctive obligation. An obligation composed of multiple performances that can be separately rendered or enforced; esp., an obligation in which several objects are connected by and (not or) or are in some other way clearly meant to be separately included in the contract. • For example, a loan agreement's conjunctive obligation may require payment of four loan installments and delivery of a deed of trust. Each loan installment and the deed's delivery is a separate, enforceable performance.

contractual obligation. An obligation arising from a contract or agreement.

conventional obligation. An obligation that results from agreement of the parties; a contractual obligation. Cf. obediential obligation. — Also termed express obligation; civil obligation.

correal obligation (kor-ee-<<schwa>>l or k<<schwa>>-ree-<<schwa>>l). Roman & civil law. A joint and several obligation.

“A correal obligation means a plurality of obligations based on a community of obligation: a joint liability in respect of the whole of the same debt or a joint right in respect of the whole of the same claim.” Rudolph Sohm, *The Institutes: A Textbook of the History and System of Roman Private Law* 361 (James Crawford Ledlie trans., 3d ed. 1907).

current obligation. An obligation that is presently enforceable, but not past due.

determinate obligation. An obligation that has a specific thing as its object. • For example, an obligation to deliver the 1491 Venice edition of *Vocabularium Iuris* that once belonged to H.L.A. Hart can be discharged only by delivering the specified book. Cf. indeterminate obligation.

disjunctive obligation. See alternative obligation.

divisible obligation. An obligation that can be divided without the consent of the parties. • Either the performing party or the receiving party may unilaterally divide the obligation.

express obligation. See conventional obligation.

heritable obligation. An obligation that may be enforced by a successor of the creditor or against a successor of the debtor. — Also termed inheritable obligation.

imperfect obligation. See moral obligation.

implied obligation. See obediential obligation.

indeterminate obligation. 1. An obligation by which the obligor is bound to deliver one of a certain species of items. • For example, an obligation to deliver a pre-1509 edition of *Vocabularium Iuris* can be discharged by delivering any edition published before that date. 2. An obligation that is not specific in amount or form, or is subject to being changed by a third party. Cf. determinate obligation.

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inheritable obligation. See heritable obligation.

joint obligation. 1. An obligation that binds two or more debtors to a single performance for one creditor. 2. An obligation that binds one debtor to a single performance for two or more creditors.

moral obligation. A duty that is based only on one's conscience and that is not legally enforceable; an obligation with a purely moral basis, as opposed to a legal one. • In contract law, moral obligation may support a promise in the absence of traditional consideration, but only if the promisor has previously received some actual benefit from the promisee. — Also termed imperfect obligation; natural obligation. [Cases: Contracts 76. C.J.S. Contracts §§ 102, 127, 130.]

natural obligation. 1. Civil law. A moral duty that is not enforceable by judicial action. • Natural obligations are recognized in civil-law jurisdictions. While they are not enforceable by judicial action, something that has been performed under a natural obligation may not be reclaimed. For example, if an indigent patient in a hospital has no legal obligation to pay for the treatment but does so anyway, that person cannot later reclaim the payments voluntarily made. — Also termed *obligatio naturalis*. 2. See moral obligation.

obediential obligation (<<schwa>>-bee-dee-en-sh<<schwa>>l). An obligation imposed on a person because of a situation or relationship, such as an obligation of parents to care for their children. — Also termed implied obligation. Cf. conventional obligation.

perfect obligation. A legally enforceable obligation; one that is recognized and sanctioned by positive law.

personal obligation. 1. An obligation performable only by the obligor, not by the obligor's heirs or representatives. 2. An obligation in which the obligor is bound to perform without encumbering his or her property for its performance.

primary obligation. 1. An obligation that arises from the essential purpose of the transaction between the parties. Cf. accessory obligation. 2. A fundamental contractual term imposing a requirement on a contracting party from which other obligations may arise. — Also termed principal obligation.

primitive obligation. The obligation designated as the first to be satisfied.

principal obligation. See primary obligation (2).

pure obligation. Scots law. An absolute obligation already due and immediately enforceable. — Also termed pure debt.

secondary obligation. A duty, promise, or undertaking that is incident to a primary obligation; esp., a duty to make reparation upon a breach of contract. — Also termed accessory obligation.

several obligation. 1. An obligation that binds two or more debtors to separate performances for one creditor. 2. An obligation that binds one debtor to separate performances for two or more creditors.

simple obligation. An obligation that does not depend on an outside event; an unconditional obligation.

single obligation. An obligation with no penalty attached for nonperformance, as when one party simply promises to pay 20 dollars to another.

solidary obligation (sol-*<<schwa>>-der-ee*). Roman & civil law. An obligation that binds each of two or more debtors for the entire performance at the option of the creditor. • Solidary obligations are analogous to common-law joint and several obligations.

“A solidary obligation means the separate liability of several persons in respect of one and the same object. The normal case of a solidary obligation is a joint delict, as when two or more persons, acting jointly, do damage to property or commit a theft. So far as the obligation creates a duty to pay damages, it is solidary. Each of the co-delinquents is liable to make good the whole of the same damage.” Rudolph Sohm, *The Institutes: A Textbook of the History and System of Roman Private Law* 361–62 (James Crawford Ledlie trans., 3d ed. 1907).

statutory obligation. An obligation — whether to pay money, perform certain acts, or discharge duties — that is created by or arises out of a statute, rather than based on an independent contractual or legal relationship.

substitute obligation. Civil law. An obligation that takes the place of an extinguished obligation by novation. See NOVATION.

unifactoral obligation (yoo-n*<<schwa>>-fak-t<<schwa>>r<<schwa>>l*). An obligation created by one party.

#### OBLIGATION, MUTUALITY OF

obligation, mutuality of. See MUTUALITY OF OBLIGATION.

#### OBLIGATIONAL

obligational. See OBLIGATORY.

#### OBLIGATIO NATURALIS

obligatio naturalis. See OBLIGATIO.

#### OBLIGATION BOND

obligation bond. See general obligation bond under BOND(3).

#### OBLIGATIONES INNOMINATI

obligationes innominati. See INNOMINATE OBLIGATIONS.

#### OBLIGATION OF CONTRACTS CLAUSE

Obligation of Contracts Clause. See CONTRACTS CLAUSE.

#### OBLIGATIONS, LAW OF

obligations, law of. See LAW OF OBLIGATIONS.

#### OBLIGATIO QUASI EX CONTRACTU

obligatio quasi ex contractu. See OBLIGATIO.

#### OBLIGATIO QUASI EX DELICTO

obligatio quasi ex delicto. See OBLIGATIO.

#### OBLIGATIO QUASI EX MALEFICIO

obligatio quasi ex maleficio. See obligatio quasi ex delicto under OBLIGATIO.

#### OBLIGATORY

obligatory (<<schwa>>-blig-<<schwa>>-tor-ee), adj. 1. Legally or morally binding <an obligatory promise>. 2. Required; mandatory <attendance is not obligatory>. 3. Creating or recording an obligation <a writing obligatory>. — Also termed (rarely) obligational.

#### OBLIGE

oblige (<<schwa>>-blj), vb. 1. To bind by legal or moral duty; OBLIGATE. 2. To bind by doing a favor or service.

#### OBLIGEE

obligee (ob-l<<schwa>>-jee). 1. One to whom an obligation is owed; a promisee, creditor, or donor beneficiary. 2. Under the Uniform Interstate Family Support Act, any person to whom a duty of support is owed. 3. Archaic. One who is obliged to do something; OBLIGOR(1).

“Several dictionaries, such as The Random House College Dictionary (rev. ed. 1988) and Webster's New World Dictionary (1979), define obligee in its etymological sense [‘obliged’], as if it were synonymous with obligor. Random House, for example, defines obligee as ‘a person who is under obligation,’ but that meaning ought to be reserved for obligor. An obligee, in modern usage, is one to whom an obligation is owed.” Bryan A. Garner, *A Dictionary of Modern Legal Usage* 609 (2d ed. 1995).

#### OBLIGOR

obligor (ob-l<<schwa>>-gororob-l<<schwa>>-gor). 1. One who has undertaken an obligation; a promisor or debtor. UCC § 9-102(a)(59). 2. Under the Uniform Interstate Family Support Act, any person who owes a duty of support. 3. Archaic. One who obliges another to do something; OBLIGEE(1).

principal obligor. A person who is under a duty of indemnity.

#### OBLIQUE

oblique (oh-bleekor <<schwa>>-bleek), adj. 1. Not direct in descent; collateral <an oblique heir>. 2. Indirect; circumstantial <oblique evidence>.

**OBLIQUE EVIDENCE**

oblique evidence. See circumstantial evidence (1) under EVIDENCE.

**OBLIQUUS**

obliquus (ob-II-kw<<schwa>>s). [Latin "oblique"] Hist. (Of a line of descent) collateral; indirect. Cf. RECTUS.

**OBLITERATE**

obliterate, vb. 1. To wipe out, rub off, or erase (a writing or other markings). 2. To remove from existence; to destroy all traces of. — obliteration, n.

**OBLITERATED CORNER**

obliterated corner. See CORNER.

**OBLIVION**

oblivion. 1. The act or fact of forgetting or having forgotten <the oblivion of sleep>. 2. The state of being completely forgotten or unknown <a once-famous politician now in oblivion>. 3. An official disregard of an offense; pardon; amnesty <an act of oblivion by Parliament>.

**OBLOQUY**

obloquy (ob-l<<schwa>>-kwee). 1. Abusive or defamatory language; CALUMNY. 2. The state or condition of being ill spoken of; disgrace or bad repute.

**OB MAJOREM CAUTELAM**

ob majorem cautelam (ob m<<schwa>>-jor<<schwa>>m kaw-tee-l<<schwa>>m). [Law Latin] Hist. For greater security.

**OB METUM PERJURII**

ob metum perjurii (ob mee-t<<schwa>>m p<<schwa>>r-juur-ee-I). [Law Latin] Scots law. On account of the fear of perjury. See METUS PERJURII.

**OB NON SOLUTUM CANONEM**

ob non solutum canonem (ob non s<<schwa>>-loo-t<<schwa>>m k<<schwa>>-noh-n<<schwa>>m). [Law Latin] Scots law. On account of unpaid canon or feu duty. • A vassal could forfeit land if the vassal failed to pay the feu duty for two (later five) years. See FEU.

**OBNOXIOUS**

obnoxious, adj. 1. Offensive; objectionable <obnoxious behavior>. 2. Contrary; opposed <a practice obnoxious to the principle of equal protection under the law>. 3. Archaic. Exposed to harm; liable to something undesirable <actions obnoxious to criticism>.

**OB PIAS CAUSAS**

ob pias causas (ob pI-<<schwa>>s kaw-z<<schwa>>s). [Latin] Hist. On account of religious or charitable reasons; for dutiful considerations.

“Provisions made by a son to his father ob pias causas are those which proceed from the affectionate regard and natural duty which the son is bound morally to render to his father.” John Trayner, Trayner's Latin Maxims 412 (4th ed. 1894).

#### OB POENAM NEGLIGENTIAE

ob poenam negligentiae (ob pee-n<<schwa>>m neg-li-jen-shee-ee). [Law Latin] Hist. On account of punishment for negligence. • The law punished those who were negligent in protecting their own interests.

#### OB PUBLICAM UTILITATEM

ob publicam utilitatem (ob p<<schwa>>b-li-k<<schwa>>m yoo-til-<<schwa>>-tay-t<<schwa>>m). [Latin] Hist. On account of public utility; for the public advantage.

#### OBREPTION

obreption (ob-rep-sh<<schwa>>n). The fraudulent obtaining of a gift or dispensation, esp. from a sovereign or ecclesiastical authority. Cf. SUBREPTIO.

#### OBREPTIONE

obreptione (ob-rep-shee-oh-nee). [Latin] Hist. By surprise; by deceit.

#### OB REVERENTIAM PERSONAE ET METUM PERJURII

ob reverentiam personae et metum perjurii (ob rev-<<schwa>>-ren-shee-<<schwa>>m p<<schwa>>r-soh-nee et mee-t<<schwa>>m p<<schwa>>r-juur-ee-I). [Law Latin] Hist. On account of reverence to the person and the fear of perjury. • On this basis, certain witnesses could be excluded or could decline to answer certain questions that might cause them to commit perjury rather than admit to some act. This principle is essentially the forerunner to the Fifth Amendment privilege against self-incrimination. See METUS PERJURII.

#### OBROGATE

obrogate (ob-r<<schwa>>-gayt), vb. Civil law. To modify or repeal (a law) in whole or in part by passing a new law. Cf. ABROGATE. — obrogation,n.

#### OBSCENE

obscene,adj. Extremely offensive under contemporary community standards of morality and decency; grossly repugnant to the generally accepted notions of what is appropriate. • Under the Supreme Court's three-part test, material is legally obscene — and therefore not protected under the First Amendment — if, taken as a whole, the material (1) appeals to the prurient interest in sex, as determined by the average person applying contemporary community standards; (2) portrays sexual conduct, as specifically defined by the applicable state law, in a patently offensive way; and (3) lacks serious literary, artistic, political, or scientific value. *Miller v. California*, 413 U.S. 15, 93



S.Ct. 2607 (1973). [Cases: Constitutional Law 82(10), 90.4; Obscenity 1. C.J.S. Constitutional Law §§ 464, 546, 631, 635–637, 639, 644, 646–648; Obscenity §§ 1–8.]

“If there be no abstract definition, ... should not the word ‘obscene’ be allowed to indicate the present critical point in the compromise between candor and shame at which the community may have arrived here and now?” *United States v. Kennerley*, 209 F. 119, 121 (S.D.N.Y. 1913)(per Hand, J.).

#### OBSCENE LIBEL

obscene libel.See LIBEL.

#### OBSCENITY

obscenity,n.1. The characteristic or state of being morally abhorrent or socially taboo, esp. as a result of referring to or depicting sexual or excretory functions. [Cases: Constitutional Law 82(10), 90.4; Obscenity 1. C.J.S. Constitutional Law §§ 464, 546, 631, 635–637, 639, 644, 646–648; Obscenity §§ 1–8.] 2. Something (such as an expression or act) that has this characteristic. See CONTEMPORARY COMMUNITY STANDARD. Cf. INDECENCY.

“Obscenity is not deemed to be protected by the First Amendment, and the operative legal tests for obscenity are spongy and leave much to the vagaries of juries asked to evaluate expert testimony on literary merit, offensiveness, and other unmeasurables.” Richard A. Posner, *Law and Literature: A Misunderstood Relation* 329 (1988).

commercialized obscenity.Obscenity produced and marketed for sale to the public.

#### OBSERVE

observe,vb. To adhere to or abide by (a law, rule, or custom) <a traffic citation for failing to observe the speed limit>.

#### OBSERVER

observer.Int'l law. A representative of a country or international organization who attends meetings of an international body (such as the United Nations) to which the observer's country does not belong. • Observers do not vote or sign documents, but they are sometimes allowed to participate in discussions. [Cases: International Law 10.45. C.J.S. International Law §§ 59–65.]

#### OBSES

obses (ob-seez), n.[Latin] A hostage in wartime. Pl. obsides.

#### OBSIGNARE

obsignare (ob-sig-nair-ee), vb.[Latin] Civil law. To seal up, as with money that has been tendered and refused.

#### OBSIGNATION

obsignation,n. A formal ratification or confirmation, esp. by an official seal. — obsignatory

(ob-sig-n<<schwa>>-tor-ee), adj.

#### OBSIGNATOR

obsignator (ahb-sig-nay-tor or -t<<schwa>>r), n. [Latin] Roman law. One who affixes a seal, esp. as a witness, to a will or other document. Pl. obsignatores (ahb-sig-n<<schwa>>-tor-eez).

#### OBSOLESCENCE

obsolescence (ob-s<<schwa>>-les-<<schwa>>nts).1. The process or state of falling into disuse or becoming obsolete. 2. A diminution in the value or usefulness of property, esp. as a result of technological advances. • For tax purposes, obsolescence is usu. distinguished from physical deterioration. Cf. DEPRECIATION. [Cases: Taxation 348(4).]

economic obsolescence.Obsolescence that results from external economic factors, such as decreased demand or changed governmental regulations. — Also termed external obsolescence. Cf. functional obsolescence.

external obsolescence.See economic obsolescence.

functional obsolescence.Obsolescence that results either from inherent deficiencies in the property, such as inadequate equipment or design, or from improvements in the property since its use began. Cf. economic obsolescence.

planned obsolescence.A system or policy of deliberately producing consumer goods that will wear out or become outdated after limited use, thus inducing consumers to buy new items more frequently. — Also termed built-in obsolescence.

#### OBSOLESCENT

obsolescent,adj. Going out of use; becoming obsolete.

#### OBSOLETE

obsolete,adj. No longer in general use; out-of-date.

#### OBSTACLE PREEMPTION

obstacle preemption.See PREEMPTION.

#### OBSTANTE

obstante (ob-stan-tee or <<schwa>>b-). [Latin] Withstanding; hindering. See NON OBSTANTE VEREDICTO .

#### OBSTA PRINCIPIIS

obsta principiis (ob-st<<schwa>> prin-sip-ee-is). [Latin] Withstand beginnings; resist the first approaches or encroachments.

#### OBSTINATE DESERTION

obstinate desertion.See DESERTION.

**OBSTRUCT**

obstruct (<<schwa>>b-strikt), vb. To coerce. — obstructiveness,n. — obstructive,adj.

“The element of coercion or obstructiveness. The contrast here is between voluntary and obstructed (or coerced) conduct. The coercion need not be actual (objective), but may be merely potential (subjective) by fear of the possible force; as, when the faithful canine, Towser, susceptible to the sight of a feline enemy, is tempted to pursue, but upon his owner's stern voice and a shake of the stick, Towser turns humbly back and crushes his impulse.” John Henry Wigmore, *Problems of Law* 7–8 (1920).

**OBSTRUCTION**

obstruction.Archaic. Obligation; bond.

**OBSTRUCTING PROCESS**

obstructing process.See OBSTRUCTION OF PROCESS.

**OBSTRUCTION**

obstruction. 1. Something that impedes or hinders, as in a street, river, or design; an obstacle. 2. The act of impeding or hindering something; interference. 3.Oil & gas. A common-law doctrine that suspends the running of time under an oil-and-gas lease or extends the lease for a reasonable period of time if rights granted under the lease are interfered with by the lessor or someone claiming through the lessor.

**OBSTRUCTION OF JUSTICE**

obstruction of justice.Interference with the orderly administration of law and justice, as by giving false information to or withholding evidence from a police officer or prosecutor, or by harming or intimidating a witness or juror. • Obstruction of justice is a crime in most jurisdictions. — Also termed obstructing justice; obstructing public justice. [Cases: Obstructing Justice 1; Sentencing and Punishment 761. C.J.S. Obstructing Justice or Governmental Administration §§ 1, 3–14, 16, 18–20, 25–30, 33, 35–36, 38.]

“The goal, — to proscribe every wilful act of corruption, intimidation or force which tends in any way to distort or impede the administration of law either civil or criminal — has been very largely attained, partly by aid of legislation. And any punishable misdeed of such a nature which is not recognized as a distinct crime, is usually called ‘obstruction of justice,’ or ‘obstructing justice,’ — a common-law misdemeanor.” Rollin M. Perkins & Ronald N. Boyce, *Criminal Law* 552 (3d ed. 1982).

**OBSTRUCTION OF PROCESS**

obstruction of process.Interference of any kind with the lawful service or execution of a writ, warrant, or other process. • Most jurisdictions make this offense a crime. — Also termed obstructing process; resisting process.

**OBTAINING PROPERTY BY FALSE PRETENSES**

obtaining property by false pretenses. See FALSE PRETENSES.

#### OBTAIN THE FLOOR

obtain the floor. Parliamentary law. To receive recognition from the chair after claiming the floor.

#### OBTEST

obtest (ob- or <<schwa>>b-test), vb. 1. To call to or invoke as a witness. 2. To ask for earnestly; beseech; implore. 3. To protest.

#### OBTORTO COLLO

obtorto collo (ob-tor-toh kah-loh). [Latin] Roman law. Dragged by the neck. • Because a plaintiff could not sue an absent defendant, the plaintiff was sometimes said to have to bring a defendant obtorto collo to court.

#### OBTULIT SE

obtulit se (ob-t[y]<<schwa>>-lit see). [Latin] Offered himself. • In old English practice, these words were entered on the record when one party appeared (“offered himself”) in court against an opposing party who did not appear.

#### OB TURPEM CAUSAM

ob turpem causam (ob t<<schwa>>r-p<<schwa>>m [or -pem] kaw-z<<schwa>>m). [Latin] For an immoral consideration; on account of disgraceful consideration. • An obligation ob turpem causam (i.e., founded on what was termed turpis causa) could not be enforced.

#### OBVENTION

obvention (ob- or <<schwa>>b-ven-sh<<schwa>>n). Eccles. law. An incoming fee or revenue, esp. one that comes occasionally or incidentally.

#### OBVIATE

obviate (ob-vee-ayt), vb. 1. To dispose of or do away with (a thing); to anticipate and prevent from arising <they obviated the growing problem through legislation>. 2. To make unnecessary <the movant obviated the all-night drafting session by getting the opponent to agree to an extension>. — obviation, n. — obviator, n.

#### OBVIOUS ERROR

obvious error. A standard of review that applies to unobjected-to actions and omissions at trial that are so seriously prejudicial as to result in manifest injustice.

#### OBVIOUSNESS

obviousness, n. Patents. The quality or state of being easily apparent to a person with ordinary skill in a given art, considering the scope and content of the prior art, so that the person could

reasonably believe that, at the time it was conceived, the invention was to be expected. • An invention that is determined to be obvious cannot be patented. Although an obviousness inquiry is rife with questions of fact, the ultimate conclusion is a question of law. See 35 USCA § 103. Cf. NONOBVIOUSNESS. [Cases: Patents 16.C.J.S. Patents § 68.] — obvious,adj.

#### OBVIOUSNESS DOUBLE PATENTING

obviousness double patenting. See DOUBLE PATENTING(2).

#### OBVIOUSNESS-TYPE DOUBLE PATENTING

obviousness-type double patenting. See judicially created double patenting under DOUBLE PATENTING(2).

#### OBVIOUSNESS-TYPE DOUBLE-PATENTING REJECTION

obviousness-type double-patenting rejection. See judicially created double-patenting rejection under REJECTION.

#### O.C.

o.c. abbr. 1. OPE CONSILIO. 2. Orphan's court. See probate court under COURT.

#### OCC

OCC. abbr. OFFICE OF THE COMPTROLLER OF THE CURRENCY.

#### OCCASIO

occasio (<<schwa>>-kay-zhee-oh). [Law Latin] Hist. 1. A tax that a lord imposed on his vassals or tenants for his necessity. 2. Hindrance or trouble; esp., vexatious litigation.

#### OCCISION

occision (ok-sizh-<<schwa>>n), n. Hist. A slaying, esp. of more than one person.

#### OCCULTATIO THESAURI INVENTI

occultatio thesauri inventi (ok-<<schwa>>l-tay-shee-oh th<<schwa>>-saw-rI in-ven-tI). [Law Latin] Hist. The concealment of found treasure.

#### OCCULT MARRIAGE

occult marriage. See confidential marriage under MARRIAGE(1).

#### OCCUPANCY

occupancy. 1. The act, state, or condition of holding, possessing, or residing in or on something; actual possession, residence, or tenancy, esp. of a dwelling or land. • In this sense, the term denotes whatever acts are done on the land to manifest a claim of exclusive control and to indicate to the public that the actor has appropriated the land. Hence, erecting and maintaining a substantial enclosure around a tract of land usu. constitutes occupancy of the whole tract.

constructive occupancy. A manifest intent to occupy property physically, followed within a reasonable time by actual occupancy.

2. The act of taking possession of something that has no owner (such as abandoned property) so as to acquire legal ownership. See ADVERSE POSSESSION. 3. The period or term during which one owns, rents, or otherwise occupies property. 4. The state or condition of being occupied. 5. The use to which property is put.

#### OCCUPANT

occupant. 1. One who has possessory rights in, or control over, certain property or premises. 2. One who acquires title by occupancy.

general occupant. A person who occupies land in the interim arising after the death of a pur autre vie tenant but before the death of the person who serves as the measuring life for the estate. • The pur autre vie tenant does not state who may occupy the land after the death of the first tenant; the land can be occupied by the first possessor of the land. — Also termed common occupant. Cf. CESTUI QUE VIE.

special occupant. A person specifically designated in a conveyance as being entitled to a life estate if the conveyee dies before the end of the life estate; specif., a pur autre vie tenant's heir who occupies land in the interim between the death of the tenant and the death of the person who serves as the measuring life for the estate. • A special occupancy can arise when the grant to the pur autre vie tenant provides that possession is for the life of the tenant, then to the tenant's heirs.

#### OCCUPANT STATUTE

occupant statute. See BETTERMENT ACT.

#### OCCUPARE

occupare (ok-y<<schwa>>-pair-ee), vb. [Latin] Civil law. To seize or take possession of (property); to enter (land) upon a vacant possession.

#### OCCUPATILE

occupatile (ok-y<<schwa>>-p<<schwa>>-tII). Hist. Property that has been left by its rightful owner and is now possessed by another.

#### OCCUPATIO

occupatio (ok-y<<schwa>>-pay-shee-oh), n. Roman law. A mode of acquisition by which a person obtains absolute title by first possessing a thing that previously belonged to no one, such as a wild bird or pearls on the shore. Cf. RULE OF CAPTURE(2).

#### OCCUPATION

occupation. 1. An activity or pursuit in which a person is engaged; esp., a person's usual or principal work or business.

dangerous occupation. An occupation that involves an appreciable risk of death or serious

bodily injury.

2. The possession, control, or use of real property; OCCUPANCY. 3. The seizure and control of a territory by military force; the condition of territory that has been placed under the authority of a hostile army. [Cases: War and National Emergency 30(1). C.J.S. War and National Defense § 46.] 4. The period during which territory seized by military force is held.

#### OCCUPATIONAL CRIME

occupational crime. See CRIME.

#### OCCUPATIONAL-DISABILITY INSURANCE

occupational-disability insurance. See INSURANCE.

#### OCCUPATIONAL DISEASE

occupational disease. A disease that is contracted as a result of exposure to debilitating conditions or substances in the course of employment. • Employees who suffer from occupational diseases are eligible for workers' compensation. Courts have construed the term to include a variety of ailments, including lung conditions (such as asbestosis or black lung), hearing loss, and carpal tunnel syndrome. — Also termed industrial disease. [Cases: Workers' Compensation 547–551. C.J.S. Workmen's Compensation §§ 315–324.]

“Certain diseases and infirmities which develop gradually and imperceptibly as a result of engaging in particular employments and which are generally known and understood to be usual incidents or hazards thereof, are distinguished from those having a traumatic origin, or otherwise developing suddenly and unexpectedly, by the terms ‘occupational,’ and ‘industrial.’” 82 Am. Jur. 2d Workers' Compensation § 326 (1992).

#### OCCUPATIONAL HAZARD

occupational hazard. See HAZARD(1).

#### OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

Occupational Safety and Health Act of 1970. A federal statute that requires employers to (1) keep the workplace free from recognized hazards that cause or are likely to cause death or serious physical harm to employees, and (2) comply with standards promulgated by the Secretary of Labor. — Abbr. OSHA (oh-sh<<schwa>>). [Cases: Labor Relations 9.6.]

“Although OSHA has been one of the most controversial pieces of protective legislation ever enacted, Congress has not passed any substantive amendments to the Act. There have been, however, some limitations on OSHA enforcement activity attached to appropriations bills. In addition, OSHA has been affected by newer laws such as the Criminal Fine Enforcement Act, the Equal Access to Justice Act, and the Surface Transportation Assistance Act.... The Act covers employment in every state, the District of Columbia, Puerto Rico, and all American territories, an estimated 5 million workplaces and 75 million employees.” Mark A. Rothstein, *Occupational Safety and Health Law* 7 (1990).

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**OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION**

Occupational Safety and Health Administration. A unit in the U.S. Department of Labor responsible for setting and enforcing workplace safety and health standards and for helping employers comply with them. • It was created under the Occupational Safety and Health Act of 1970. 29 USCA §§ 651 et seq. There are ten regional offices. — Abbr. OSHA. [Cases: Labor Relations 9.6, 27.1.]

**OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION**

Occupational Safety and Health Review Commission. An independent, quasi-judicial commission that resolves allegations of unsafe or unhealthy working conditions. • It was established by the Occupational Safety and Health Act of 1970. 29 USCA §§ 651–678. — Abbr. OSHRC.

**OCCUPATIONAL TAX**

occupational tax. See occupation tax under TAX.

**OCCUPATION TAX**

occupation tax. See TAX.

**OCCUPAVIT**

occupavit (ok-y<<schwa>>-pay-vit). [Law Latin] Hist. A writ to regain possession to land or a tenement from which one was ejected in time of war.

**OCCUPYING CLAIMANT**

occupying claimant. A person who claims the right under a statute to recover for the cost of improvements done to land that is later found not to belong to the person. [Cases: Improvements 4. C.J.S. Improvements § 5.]

**OCCUPYING-CLAIMANT ACT**

occupying-claimant act. See BETTERMENT ACT.

**OCCURRENCE**

occurrence. Something that happens or takes place; specif., an accident, event, or continuing condition that results in personal injury or property damage that is neither expected nor intended from the standpoint of an insured party. • This specific sense is the standard definition of the term under most liability policies. [Cases: Insurance 2101, 2275. C.J.S. Insurance §§ 935, 941, 943, 949.]

**OCCURRENCE-BASED LIABILITY INSURANCE**

occurrence-based liability insurance. See INSURANCE.

**OCCURRENCE POLICY**



occurrence policy. See INSURANCE POLICY.

#### OCCURRENCE RULE

occurrence rule. Civil procedure. The rule that a limitations period begins to run when the alleged wrongful act or omission occurs, rather than when the plaintiff discovers the injury. • This rule applies, for example, to most breach-of-contract claims. See STATUTE OF LIMITATIONS. Cf. DISCOVERY RULE. [Cases: Limitation of Actions 43. C.J.S. Limitations of Actions §§ 81–84.]

#### OCEAN

ocean. 1. The continuous body of salt water that covers more than 70% of the earth's surface; the high seas; the open sea. Cf. SEA. 2. Any of the principal geographic divisions of this body. • There are generally considered to be five oceans: Atlantic, Pacific, Indian, Arctic, and Antarctic.

#### OCEAN BILL OF LADING

ocean bill of lading. See BILL OF LADING.

#### OCEAN MARINE INSURANCE

ocean marine insurance. See INSURANCE.

#### OCHAMPUS

OCHAMPUS. abbr. OFFICE OF CIVILIAN HEALTH AND MEDICAL PROGRAMS OF THE UNIFORMED SERVICES .

#### OCHLOCRACY

ochlocracy (ah-klah-kr<<schwa>>-see). Government by the lowest classes; mob-rule.

#### OCTO TALES

octo tales (ok-toh tay-leez ortaylz). [Latin “eight such”] 1. A supply of eight additional jurors for a trial. 2. A writ commanding a sheriff to summon eight more jurors for a trial. See TALES. [Cases: Jury 72. C.J.S. Juries §§ 333–334, 337.]

#### OCTROI

octroi (ok-troy or ahk-trwah), n. [French] 1. Hist. A grant or privilege of a charter by a sovereign. 2. A local tax levied on certain goods that are brought into a city (esp. in some European countries). 3. The place where such a tax is collected. 4. The agency for collecting such a tax.

#### OCTROY

octroy (ok-troy), vb. (Of a sovereign) to grant or concede as a privilege.

#### O/D

o/d. abbr. 1. OVERDRAFT(1). 2. OVERDRAFT(2).

## OD

OD.abbr.1. Overdose. 2.OVERDRAFT(1).3.OVERDRAFT(2).4. See ordinary seaman under SEAMAN.

## ODAL

odal (oh-d<<schwa>>l), n. Hist. Land not subject to feudal duties or burdens; ALLODIUM. — Also termed odel; odhal; odhall. — odal,adj. <an odal right>.

## ODD LOT

odd lot.See LOT(3).

## ODD-LOT

odd-lot,adj. Of, relating to, or designating a worker who is so substantially disabled as to be unable to find stable employment in the ordinary labor market, and thus is considered totally disabled and entitled to workers'-compensation benefits under the odd-lot doctrine <an odd-lot worker who could find only sporadic employment>. [Cases: Workers' Compensation 847.C.J.S. Workmen's Compensation §§ 558–559.]

## ODD-LOT DOCTRINE

odd-lot doctrine.Workers' compensation. The doctrine that permits a finding of total disability for an injured claimant who, though able to work sporadically, cannot obtain regular employment and steady income and is thus considered an “odd lot” in the labor market. [Cases: Workers' Compensation 847. C.J.S. Workmen's Compensation §§ 558–559.]

## ODEL

odel. See ODAL.

## ODHAL

odhal. See ODAL.

## ODHALL

odhall. See ODAL.

## ODIO ET ATIA

odio et atia.See DE ODIO ET ATIA.

## ODIUM

odium (oh-dee-<<schwa>>m).1. The state or fact of being hated. 2. A state of disgrace, usu. resulting from detestable conduct. 3. Hatred or strong aversion accompanied by loathing or contempt. — odious,adj.

## ODP

ODP.abbr.OFFICE OF DOMESTIC PREPAREDNESS.

OECONOMICUS

oeconomicus (ee-k<<schwa>>-nom-<<schwa>>-k<<schwa>>s). [Law Latin fr. Greek] Hist. An executor of a will.

OECONOMUS

oeconomus (ee-kon-<<schwa>>-m<<schwa>>s). [Latin fr. Greek] Civil law. A manager or administrator.

OEQ

OEQ.abbr. OFFICE OF ENVIRONMENTAL QUALITY.

OES

OES.abbr.BUREAU OF OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS .

OFCCP

OFCCP.abbr.OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS.

OF COUNSEL

of counsel.See COUNSEL.

OF COURSE

of course. 1. Following the ordinary procedure <the writ was issued as a matter of course>.2. Naturally; obviously; clearly <we'll appeal that ruling, of course>.

OFF-BOARD

off-board,adj. Outside a major exchange; over-the-counter or between private parties <an off-board securities transaction>. — Also termed off-the-board. See OVER-THE-COUNTER.

OFFENDER

offender. A person who has committed a crime.

adult offender. 1. A person who has committed a crime after reaching the age of majority. 2. A person who, having committed a crime while a minor, has been convicted after reaching the age of majority. 3. A juvenile who has committed a crime and is tried as an adult rather than as a juvenile. [Cases: Infants 68.5. C.J.S. Infants §§ 43–45.]

career offender.Under the federal-sentencing guidelines, an adult who, after being convicted of two violent felonies or controlled-substance felonies, commits another such felony. U.S. Sentencing Guidelines Manual § 4B1.1.

first offender.A person who authorities believe has committed a crime but who has never

before been convicted of a crime. • First offenders are often treated leniently at sentencing or in plea negotiations. [Cases: Criminal Law 273.1(2); Sentencing and Punishment 102, 868. C.J.S. Criminal Law §§ 365–374, 1459–1460, 1463, 1465, 1472, 1477, 1479, 1492–1493, 1495, 1530.]

habitual offender. 1. A person who commits the same or a similar offense a certain number of times in a certain period, as set by statute, and is therefore eligible for an enhanced sentence. [Cases: Sentencing and Punishment 1200. C.J.S. Criminal Law §§ 1638–1639, 1641.]  
2.RECIDIVIST.

repeat offender.A person who has been convicted of a crime more than once; RECIDIVIST. [Cases: Sentencing and Punishment 1202. C.J.S. Criminal Law §§ 1643, 1650, 1652.]

situational offender.A first-time offender who is unlikely to commit future crimes.

status offender.A youth who engages in conduct that — though not criminal by adult standards — is considered inappropriate enough to bring a charge against the youth in juvenile court; a juvenile who commits a status offense. Cf. youthful offender; JUVENILE DELINQUENT. [Cases: Infants 153. C.J.S. Infants §§ 33–35, 41–42, 64, 67.]

youthful offender. 1. A person in late adolescence or early adulthood who has been convicted of a crime. • A youthful offender is often eligible for special programs not available to older offenders, including community supervision, the successful completion of which may lead to erasing the conviction from the offender's record. [Cases: Infants 69(3). C.J.S. Infants § 211.]  
2.JUVENILE DELINQUENT. — Also termed young offender; youth offender. Cf. status offender.

## OFFENSE

offense (<<schwa>>-fents).1. A violation of the law; a crime, often a minor one. See CRIME. — Also termed criminal offense. [Cases: Criminal Law 1. C.J.S. Affray §§ 2–12; Criminal Law §§ 2–8, 13.]

“The terms ‘crime,’ ‘offense,’ and ‘criminal offense’ are all said to be synonymous, and ordinarily used interchangeably. ‘Offense’ may comprehend every crime and misdemeanor, or may be used in a specific sense as synonymous with ‘felony’ or with ‘misdemeanor,’ as the case may be, or as signifying a crime of lesser grade, or an act not indictable, but punishable summarily or by the forfeiture of a penalty.” 22 C.J.S. Criminal Law § 3, at 4 (1989).

acquisitive offense.An offense characterized by the unlawful appropriation of another's property. • This is a generic term that refers to a variety of crimes (such as larceny) rather than a particular one.

allied offense.A crime with elements so similar to those of another that the commission of the one is automatically the commission of the other.

anticipatory offense.See inchoate offense.

arrestable offense.English law. An offense for which the punishment is fixed by law or for which a statute authorizes imprisonment for five years, or an attempt to commit such an offense. • This statutory category, created in 1967, abolished the traditional distinction between felonies and

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misdemeanors. — Also spelled (esp. in BrE) arrestable offence.

bailable offense. A criminal charge for which a defendant may be released from custody after providing proper security <misdemeanor theft is a bailable offense>. [Cases: Bail 43. C.J.S. Bail; Release and Detention Pending Proceedings §§ 18–23.]

capital offense. A crime for which the death penalty may be imposed. — Also termed capital crime. [Cases: Sentencing and Punishment 1666.]

civil offense. See public tort under TORT.

cognate offense. A lesser offense that is related to the greater offense because it shares several of the elements of the greater offense and is of the same class or category. • For example, shoplifting is a cognate offense of larceny because both crimes require the element of taking property with the intent to deprive the rightful owner of that property. Cf. lesser included offense. [Cases: Indictment and Information 191(.5).]

compound offense. An offense composed of one or more separate offenses. • For example, robbery is a compound offense composed of larceny and assault.

continuing offense. A crime (such as a conspiracy) that is committed over a period of time, so that the last act of the crime controls when the statute of limitations begins to run. [Cases: Criminal Law 150. C.J.S. Criminal Law §§ 200–201.]

cumulative offense. An offense committed by repeating the same act at different times.

divisible offense. A crime that includes one or more crimes of lesser grade. • For example, murder is a divisible offense comprising assault, battery, and assault with intent to kill.

extraneous offense. An offense beyond or unrelated to the offense for which a defendant is on trial. [Cases: Criminal Law 369.2(1). C.J.S. Criminal Law §§ 825–826.]

graded offense. A crime that is divided into various degrees of severity with corresponding levels of punishment, such as murder (first-degree and second-degree) or assault (simple and aggravated). See DEGREE(2). [Cases: Criminal Law 28. C.J.S. Criminal Law §§ 9, 13.]

impeachable offense. See IMPEACHABLE OFFENSE.

inchoate offense. A step toward the commission of another crime, the step in itself being serious enough to merit punishment. • The three inchoate offenses are attempt, conspiracy, and solicitation. The term is sometimes criticized (see quot. below). — Also termed anticipatory offense; inchoate crime; preliminary crime. [Cases: Conspiracy 23.1; Criminal Law 44. C.J.S. Conspiracy §§ 98, 100–103, 110; Criminal Law §§ 114–123.]

“These preliminary crimes have sometimes been erroneously described as ‘inchoate’ offences. This is misleading because the word ‘inchoate’ connotes something which is not yet completed, and it is therefore not accurately used to denote something which is itself complete, even though it be a link in a chain of events leading to some object which is not yet attained. The offence of incitement is fully performed even though the person incited immediately repudiates the suggested

deed, a conspiracy is committed although the conspirators have not yet moved to execute their purposed crime, and the performance of a criminal attempt must always have been reached before the end is gained. In all these instances it is the ultimate crime which is inchoate and not the preliminary crime, the position indeed being just the same as in the example imagined above of a man who stole a revolver and committed other crimes in order to effect his purpose of murder. There the murder was inchoate, but the larceny and other crimes (including the attempt) were completed." J.W. Cecil Turner, *Kenny's Outlines of Criminal Law* 77 (16th ed. 1952).

included offense. See lesser included offense.

index offense. One of eight classes of crimes reported annually by the FBI in the Uniform Crime Report. • The eight classes are murder (and nonnegligent homicide), rape, robbery, aggravated assault, burglary, larceny-theft, arson, and auto theft. — Also termed index crime.

indictable offense. A crime that can be prosecuted only by indictment. • In federal court, such an offense is one punishable by death or by imprisonment for more than one year or at hard labor. Fed. R. Crim. P. 7(a). See INDICTMENT. [Cases: Indictment and Information 3. C.J.S. Indictments and Informations § 6.]

international offense. See INTERNATIONAL CRIME.

joint offense. An offense (such as conspiracy) committed by the participation of two or more persons.

lesser included offense. A crime that is composed of some, but not all, of the elements of a more serious crime and that is necessarily committed in carrying out the greater crime <battery is a lesser included offense of murder>. • For double-jeopardy purposes, a lesser included offense is considered the "same offense" as the greater offense, so that acquittal or conviction of either offense precludes a separate trial for the other. — Also termed lesser offense; included offense; necessarily included offense. Cf. cognate offense predicate act; predicate offense. [Cases: Indictment and Information 189, 191. C.J.S. Indictments and Informations §§ 218, 220, 230–231, 242.]

liquor offense. Any crime involving the inappropriate use or sale of intoxicating liquor. See DRAM-SHOP LIABILITY; DRIVING WHILE INTOXICATED. [Cases: Intoxicating Liquors 131–176. C.J.S. Intoxicating Liquors §§ 2–20, 222, 237–288.]

major offense. An offense the commission of which involves one or more lesser included offenses, as murder may include assault and battery.

military offense. See MILITARY OFFENSE.

multiple offense. An offense that violates more than one law but that may require different proof so that an acquittal or conviction under one statute does not exempt the defendant from prosecution under another. [Cases: Double Jeopardy 134. C.J.S. Criminal Law § 253.]

necessarily included offense. See lesser included offense.

negligent offense. A violation of law arising from a defective discharge of duty or from

criminal negligence. See criminal negligence under NEGLIGENCE.

object offense. The crime that is the object of the defendant's attempt, solicitation, conspiracy, or complicity. • For example, murder is the object offense in a charge of attempted murder. — Also termed target offense.

offense against property. A crime against another's personal property. • The common-law offenses against property were larceny, embezzlement, cheating, cheating by false pretenses, robbery, receiving stolen goods, malicious mischief, forgery, and uttering forged instruments. Although the term crimes against property, a common term in modern usage, includes crimes against real property, the term offense against property is traditionally restricted to personal property. Cf. CRIMES AGAINST PROPERTY.

offense against public justice and authority. A crime that impairs the administration of justice. • The common-law offenses of this type were obstruction of justice, barratry, maintenance, champerty, embracery, escape, prison breach, rescue, misprision of felony, compounding a crime, subornation of perjury, bribery, and misconduct in office.

offense against the habitation. A crime against another's house — traditionally either arson or burglary.

offense against the person. A crime against the body of another human being. • The common-law offenses against the person were murder, manslaughter, mayhem, rape, assault, battery, robbery, false imprisonment, abortion, seduction, kidnapping, and abduction. Cf. CRIMES AGAINST PERSONS.

offense against the public health, safety, comfort, and morals. A crime traditionally viewed as endangering the whole of society. • The common-law offenses of this type were nuisance, bigamy, adultery, fornication, lewdness, illicit cohabitation, incest, miscegenation, sodomy, bestiality, buggery, abortion, and seduction.

offense against the public peace. A crime that tends to disturb the peace. • The common-law offenses of this type were riot, unlawful assembly, dueling, rout, affray, forcible entry and detainer, and libel on a private person. [Cases: Breach of the Peace 1–14. C.J.S. Breach of the Peace §§ 2–13; Domestic Abuse and Violence §§ 3, 6.]

petty offense. A minor or insignificant crime. 18 USCA § 19. See MISDEMEANOR. Cf. serious offense.

“[W]e find ... an apparent implication that a ‘petty offense’ is not a ‘crime.’ Much could be said for such a position but it is not the law at the present time. In the federal penal code, for example, it is provided that any misdemeanor ‘the penalty for which does not exceed imprisonment for a period of six months or a fine of not more than \$500, or both, is a petty offense.’ ” Rollin M. Perkins & Ronald N. Boyce, *Criminal Law* 22 (3d ed. 1982) (quoting 18 USCA § 1(3)).

political offense. See POLITICAL OFFENSE.

predicate offense. 1. An earlier offense that can be used to enhance a sentence levied for a later conviction. • Predicate offenses are defined by statute and are not uniform from state to state. 2. See lesser included offense.

public offense. An act or omission forbidden by law.

public-welfare offense. A minor offense that does not involve moral delinquency and is prohibited only to secure the effective regulation of conduct in the interest of the community. • An example is driving a car with one brake-light missing. — Also termed regulatory offense; contravention.

regulatory offense. 1. A statutory crime, as opposed to a common-law crime. 2. See public-welfare offense.

same offense. 1. For double-jeopardy purposes, the same criminal act, omission, or transaction for which the person has already stood trial. See DOUBLE JEOPARDY. [Cases: Double Jeopardy 132.1.] 2. For sentencing and enhancement-of-punishment purposes, an offense that is quite similar to a previous one.

second offense. An offense committed after conviction for a first offense. • The previous conviction, not the indictment, forms the basis of the charge of a second offense.

separate offense. 1. An offense arising out of the same event as another offense but containing some differences in elements of proof. • A person may be tried, convicted, and sentenced for each separate offense. 2. An offense arising out of a different event entirely from another offense under consideration.

serious offense. An offense not classified as a petty offense and usu. carrying at least a six-month sentence. — Also termed serious crime. Cf. petty offense.

sexual offense. An offense involving unlawful sexual conduct, such as prostitution, indecent exposure, incest, pederasty, and bestiality.

status offense. 1. See status crime under CRIME. 2. A minor's violation of the juvenile code by doing some act that would not be considered illegal if an adult did it, but that indicates that the minor is beyond parental control. • Examples include running away from home, truancy, and incorrigibility. See JUVENILE DELINQUENCY.

strict-liability offense. An offense for which the action alone is enough to warrant a conviction, with no need to prove a mental state. • For example, illegal parking is a strict-liability offense.

substantive offense (s<<schwa>>b-st<<schwa>>n-tiv). A crime that is complete in itself and is not dependent on another crime for one of its elements. — Also termed substantive crime; substantive felony.

summary offense. An offense (such as a petty misdemeanor) that can be prosecuted without an indictment. Cf. indictable offense.



target offense. See object offense.

unnatural offense. See SODOMY.

unrelated offense. A crime that is independent from the charged offense.

violent offense. A crime characterized by extreme physical force, such as murder, forcible rape, and assault and battery with a dangerous weapon. — Also termed violent felony.

2. Civil law. An intentional unlawful act that causes injury or loss to another and that gives rise to a claim for damages. La. Civ. Code art. 2315. • This sense of offense is essentially the same as the common-law intentional tort. [Cases: Torts 1. C.J.S. Torts §§ 2–7.]

quasi-offense. Civil law. A negligent unlawful act that causes injury or loss to another and that gives rise to a claim for damages. • This is equivalent to the common-law tort of negligence. — Also termed quasi-delict. [Cases: Torts 1. C.J.S. Torts §§ 2–7.]

3. Parliamentary law. A breach of order or other misconduct for which the applicable rules subject a member to a penalty.

#### OFFENSIVE

offensive (<<schwa>>-fen-siv), adj. 1. Of or for attack <an offensive weapon>. 2. Unpleasant or disagreeable to the senses; obnoxious <an offensive odor>. 3. Causing displeasure, anger, or resentment; esp., repugnant to the prevailing sense of what is decent or moral <patently offensive language and photographs>. See OBSCENE.

#### OFFENSIVE AND DEFENSIVE LEAGUE

offensive and defensive league. Int'l law. A league binding the parties not only to aid one another when attacked but also to support one another when attacking in offensive warfare.

#### OFFENSIVE COLLATERAL ESTOPPEL

offensive collateral estoppel. See COLLATERAL ESTOPPEL.

#### OFFENSIVE LOCKOUT

offensive lockout. See LOCKOUT.

#### OFFENSIVE TREATY

offensive treaty. See TREATY(1).

#### OFFENSIVE-USE WAIVER

offensive-use waiver. An exemption from the attorney–client privilege, whereby a litigant is considered to have waived the privilege by seeking affirmative relief, if the claim relies on privileged information that would be outcome-determinative and that the opposing party has no other way to obtain. Cf. AT-ISSUE WAIVER R. [Cases: Witnesses 219(3).]

#### OFFER

offer, n.1. The act or an instance of presenting something for acceptance <the prosecutor's offer of immunity>.2. A promise to do or refrain from doing some specified thing in the future, conditioned on an act, forbearance, or return promise being given in exchange for the promise or its performance; a display of willingness to enter into a contract on specified terms, made in a way that would lead a reasonable person to understand that an acceptance, having been sought, will result in a binding contract <she accepted the \$750 offer on the Victorian armoire>. Cf. ACCEPTANCE. [Cases: Contracts 16; Sales 22(.5), 23(.5); Vendor and Purchaser 16(1), 17. C.J.S. Contracts §§ 37–41, 44, 46, 55–56, 58; Sales §§ 29–31, 33; Vendor and Purchaser §§ 9–18.]

“[A]n offer is, in effect, a promise by the offeror to do or abstain from doing something, provided that the offeree will accept the offer and pay or promise to pay the ‘price’ of the offer. The price, of course, need not be a monetary one. In fact, in bilateral contracts, as we explained earlier, the mere promise of payment of the price suffices to conclude the contract, while in a unilateral contract it is the actual payment of the price which is required.” P.S. Atiyah, *An Introduction to the Law of Contract* 44 (3d ed. 1981).

irrevocable offer (i-rev-<<schwa>>-k<<schwa>>-b<<schwa>>l). An offer that includes a promise to keep it open for a specified period, during which the offer cannot be withdrawn without the offeror's becoming subject to liability for breach of contract. • Traditionally, this type of promise must be supported by consideration to be enforceable, but under UCC § 2-205, a merchant's signed, written offer giving assurances that it will be held open — but lacking consideration — is nonetheless irrevocable for the stated period (or, if not stated, for a reasonable time not exceeding three months). — Also termed (in the UCC) firm offer; (specif.) merchant's firm offer. [Cases: Contracts 16; Sales 22; Vendor and Purchaser 18(.5). C.J.S. Contracts §§ 37–41, 44, 46, 55–56, 58; Sales §§ 29–31, 33; Vendor and Purchaser §§ 98–100, 103–106, 115–116.]

“It has sometimes been asserted that an irrevocable offer is ‘a legal impossibility.’ See Langdell, *Summary of the Law of Contracts*, § 178, also § 4; Wormser, ‘The True Conception of Unilateral Contracts,’ 26 *Yale Law Journal*, 137, note; Lee, *Title Contracts*, in *Jenks' Dig. of Eng. Civ. Law*, § 195; Ashley, *Contracts*, § 13. A close analysis shows that there is nothing impossible either in the conception itself or in its application. If we define ‘offer’ as an act on the part of the offeror ..., then no offer can ever be revoked, for it is of yesterday — it is indeed factum. But if we mean by ‘offer’ the legal relation that results from the offeror's act, the power then given to the offeree of creating contractual relations by doing certain voluntary acts on his part, then the offer may be either revocable or irrevocable according to the circumstances. The idea of an irrevocable power is not at all an unfamiliar one.” William R. Anson, *Principles of the Law of Contract* 53–54 n.3 (Arthur L. Corbin ed., 3d Am. ed. 1919).

offer to all the world. An offer, by way of advertisement, of a reward for the rendering of specified services, addressed to the public at large. • As soon as someone renders the services, a contract is made. — Also termed public offer.

offer to chaffer. See INVITATION TO NEGOTIATE.

public-exchange offer. A takeover attempt in which the bidder corporation offers to exchange

some of its securities for a specified number of the target corporation's voting shares. Cf. TENDER OFFER. [Cases: Securities Regulation 52.30–52.50. C.J.S. Securities Regulation §§ 121–122, 127–128, 131–138, 140–141.]

public offer. See offer to all the world.

standing offer. An offer that is in effect a whole series of offers, each of which is capable of being converted into a contract by a distinct acceptance.

tender offer. See TENDER OFFER.

two-tier offer. See TWO-TIER OFFER.

3. A price at which one is ready to buy or sell; BID <she lowered her offer to \$200>. 4. ATTEMPT(2) <an offer to commit battery>. — offer, vb. — offeror, n. “Where criminal assault has been given this dual scope, a definition in terms of ‘an attempt or offer’ to commit a battery is assumed to represent both grounds. The word ‘offer,’ it is said, signifies a threat that places the other in reasonable apprehension of receiving an immediate battery. It would be a mistake, however, to assume that the word carried any such significance when it first appeared in the definition of this offense. In one of its meanings, ‘offer’ is a synonym of ‘attempt.’ ” Rollin M. Perkins & Ronald N. Boyce, *Criminal Law* 163 (3d ed. 1982).

#### OFFEREE

offeree (ah-f<<schwa>>r-ee). One to whom an offer is made.

#### OFFER FOR SALE BY TENDER

offer for sale by tender. See Dutch auction (4) under AUCTION.

#### OFFER IN COMPROMISE

offer in compromise. See OFFER OF COMPROMISE.

#### OFFERING

offering, n. 1. The act of making an offer; something offered for sale. 2. The sale of an issue of securities. — Also termed (in BrE) flotation. See ISSUE (2). [Cases: Securities Regulation 11.11. C.J.S. Securities Regulation §§ 37–38.]

all-or-none offering. An offering that allows the issuer to terminate the distribution if the entire block of offered securities is not sold.

initial public offering. A company's first public sale of stock; the first offering of an issuer's equity securities to the public through a registration statement. — Abbr. IPO. [Cases: Securities Regulation 11.11. C.J.S. Securities Regulation §§ 37–38.]

negotiated offering. A securities offering in which the terms (including the underwriters' compensation) have been negotiated between the issuer and the underwriters.

primary offering. An offering of newly issued securities.

private offering. An offering made only to a small group of interested buyers. — Also termed private placement. [Cases: Securities Regulation 18.11. C.J.S. Securities Regulation § 64.]

public offering. An offering made to the general public.

registered offering. A public offering of securities registered with the SEC and with appropriate state securities commissions. — Also termed registered public offering. [Cases: Securities Regulation 11.10–11.50. C.J.S. Securities Regulation §§ 8, 35–49, 63, 69–72.]

rights offering. An issue of stock-purchase rights allowing shareholders to buy newly issued stock at a fixed price, usu. below market value, and in proportion to the number of shares they already own. — Also termed privileged subscription. Cf. PREEMPTIVE RIGHT.

secondary offering. 1. Any offering by an issuer of securities after its initial public offering. 2. An offering of previously issued securities by persons other than the issuer. See secondary distribution (1) under DISTRIBUTION.

special offering. An offering of a large block of stock that, because of its size and the market in the particular issue, is specially handled on the floor of the stock exchange.

undigested offering. A public offering of securities that remain unsold because there is insufficient demand at the offered price.

#### OFFERING CIRCULAR

offering circular. A document, similar to a prospectus, that provides information about a private securities offering. — Also termed offering statement. [Cases: Securities Regulation 25.50–25.75. C.J.S. Securities Regulation §§ 47, 92–100.]

#### OFFERING PRICE

offering price. See asking price under PRICE.

#### OFFERING STATEMENT

offering statement. See OFFERING CIRCULAR.

#### OFFER OF COMPROMISE

offer of compromise. An offer by one party to settle a dispute amicably (usu. by paying money) to avoid or end a lawsuit or other legal action. • An offer of compromise is usu. not admissible at trial as evidence of the offering party's liability but may be admissible for other purposes. Fed. R. Evid. 408. — Also termed offer in compromise; offer of settlement. [Cases: Evidence 212. C.J.S. Evidence § 379.]

#### OFFER OF JUDGMENT

offer of judgment. A settlement offer by one party to allow a specified judgment to be taken against the party. • In federal procedure (and in many states), if the adverse party rejects the offer, and if a judgment finally obtained by that party is not more favorable than the offer, then that party must pay the costs incurred after the offer was made. Fed. R. Civ. P. 68. [Cases: Federal Civil

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Procedure 2725; Judgment 74. C.J.S. Judgments § 188.]

#### OFFER OF PERFORMANCE

offer of performance.Contracts. One party's reasonable assurance to the other, through words or conduct, of a present ability to fulfill contractual obligations. • When performances are to be exchanged simultaneously, each party is entitled to refuse to proceed with the exchange until the other party makes an appropriate offer of performance. Cf. TENDER(1). [Cases: Contracts 279; Sales 153, 185. C.J.S. Contracts § 548; Sales §§ 161–162, 164, 182.]

“The requirement of an offer of performance is to be applied in the light of what is reasonably to be expected by the parties in view of the practical difficulties of absolute simultaneity and is subject to the agreement of the parties, as supplemented or qualified by usage and course of dealing.” Restatement (Second) of Contracts § 238 cmt. b (1979).

#### OFFER OF PROOF

offer of proof.Procedure. A presentation of evidence for the record (but outside the jury's presence) usu. made after the judge has sustained an objection to the admissibility of that evidence, so that the evidence can be preserved on the record for an appeal of the judge's ruling. • An offer of proof, which may also be used to persuade the court to admit the evidence, consists of three parts: (1) the evidence itself, (2) an explanation of the purpose for which it is offered (its relevance), and (3) an argument supporting admissibility. Such an offer may include tangible evidence or testimony (through questions and answers, a lawyer's narrative description, or an affidavit).Fed. R. Evid. 103(a)(2). — Also termed avowal. [Cases: Criminal Law 670; Federal Civil Procedure 2013; Trial 44. C.J.S. Criminal Law §§ 1203–1205; Trial §§ 163, 170.]

#### OFFER OF SETTLEMENT

offer of settlement.See OFFER OF COMPROMISE.

#### OFFEROR

offeror (ah-f<<schwa>>r-or). One who makes an offer.

#### OFFER TO ALL THE WORLD

offer to all the world.See OFFER.

#### OFFER TO CHAFFER

#### OFFICE

office. 1. A position of duty, trust, or authority, esp. one conferred by a governmental authority for a public purpose <the office of attorney general>. [Cases: Officers and Public Employees 1. C.J.S. Officers and Public Employees §§ 1–9, 12–17, 21.] 2. (often cap.) A division of the U.S. government ranking immediately below a department <the Patent and Trademark Office>. [Cases: United States 29. C.J.S. United States §§ 52, 57.] 3. A place where business is conducted or services are performed <a law office>.

alienation office.English law. An office for the recovery of fines levied upon writs of covenant and entries.

lucrative office. 1. A position that produces fee revenue or a salary to the officeholder. 2. A position that yields a salary adequate to the services rendered and exceeding incidental expenses; a position whose pay is tied to the performance of the office's duties. [Cases: Officers and Public Employees 30.1. C.J.S. Officers and Public Employees §§ 37–39, 44.]

ministerial office.An office that does not include authority to exercise judgment, only to carry out orders given by a superior office, or to perform duties or acts required by rules, statutes, or regulations.

office of honor.An uncompensated public position of considerable dignity and importance to which public trusts or interests are confided. [Cases: Officers and Public Employees 1. C.J.S. Officers and Public Employees §§ 1–9, 12–17, 21.]

#### OFFICE ACTION

office action.Patents. A patent examiner's communication with a patent applicant, usu. to state the reasons for denying an application. See UNITED STATES PATENT AND TRADEMARK OFFICE . [Cases: Patents 108. C.J.S. Patents §§ 144, 148–151.]

advisory office action.An office action in which the patent examiner replies to an applicant's response following final rejection of the application. • An advisory action addresses the status of an amendment made in the applicant's response to the final rejection, indicates the status of the claims for appeal, addresses an affidavit or exhibit, or responds to a request for reconsideration. — Also termed advisory action.

final office action.A patent examiner's determination that an application is not allowable. • The applicant may file a continuation application, appeal the decision, or request continued prosecution. Cf. first office action.

first office action.A patent examiner's initial reply to a patent application. • If the examiner's first report is a rejection of all or most of the application's claims, it is termed a shotgun rejection. To avoid abandoning the prosecution, the applicant must respond by answering the examiner's reasons for rejection, amending the claims, or both. Cf. final office action.

#### OFFICE AUDIT

office audit.See AUDIT.

#### OFFICE-BLOCK BALLOT

office-block ballot.See BALLOT(4).

#### OFFICE CLASSIFICATION

office classification.See CLASSIFICATION OF PATENTS.

#### OFFICE EXPENSE

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office expense. See OVERHEAD.

#### OFFICE GRANT

office grant. See GRANT.

#### OFFICE HOURS

office hours. Military law. See nonjudicial punishment under PUNISHMENT.

#### OFFICE LAWYER

office lawyer. See OFFICE PRACTITIONER.

#### OFFICE OF CHILD-SUPPORT ENFORCEMENT

office of child-support enforcement. Family law. A state or federal agency established under Title IV(D) of the Social Security Act to help custodial parents collect child support. 42 USCA §§ 651 et seq. • State offices of child-support enforcement generally come under the aegis of the Department of Human Resources. The federal Office of Child Support Enforcement has established the Parent-Locator Service.

#### OFFICE OF CIVILIAN HEALTH AND MEDICAL PROGRAMS OF THE UNIFORMED SERVICES

Office of Civilian Health and Medical Programs of the Uniformed Services. A unit in the U.S. Department of Defense responsible for administering a civilian health and medical care program for the spouses and dependent children of active members of the armed forces and for retired military personnel and their spouses and children. — Abbr. OCHAMPUS.

#### OFFICE OF COMMUNITY PLANNING AND DEVELOPMENT

Office of Community Planning and Development. A unit in the U.S. Department of Housing and Urban Development responsible for administering grant programs to help communities plan and finance their growth and development, increase their capacity to govern, and provide shelter and services for homeless people. — Abbr. CPD.

#### OFFICE OF COUNTERINTELLIGENCE

Office of Counterintelligence. An office in the U.S. Department of Energy responsible for conducting counterintelligence programs involving industrial intelligence activities of foreigners and foreign governments.

#### OFFICE OF DOMESTIC PREPAREDNESS

Office of Domestic Preparedness. A unit in the U.S. Department of Homeland Security responsible for helping state and local governments train and equip emergency responders, plan and conduct disaster drills, and offer other technical assistance to prevent, plan for, and respond to acts of terrorism. • The Office was transferred from the U.S. Department of Justice in 2003. — Abbr. ODP.

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**OFFICE OF ENROLLMENT AND DISCIPLINE**

Office of Enrollment and Discipline. Patents. The division of the U.S. Patent and Trademark Office charged with licensing patent attorneys and patent agents, and with hearing complaints involving their misconduct. • The Office is authorized to sanction practitioners, and to suspend or disbar them from practice before the PTO. Its authority is concurrent with state disciplinary procedures. [Cases: Patents 97. C.J.S. Patents §§ 135–138, 145, 178.]

**OFFICE OF ENVIRONMENTAL QUALITY**

Office of Environmental Quality. An office in the Executive Office of the President responsible for supporting the Council on Environmental Quality. — Abbr. OEQ. See COUNCIL ON ENVIRONMENTAL QUALITY.

**OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY**

Office of Fair Housing and Equal Opportunity. A unit in the U.S. Department of Housing and Urban Development responsible for administering the fair-housing laws and regulations that prohibit discrimination in public and private housing. — Abbr. FHEO.

**OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS**

Office of Federal Contract Compliance Programs. The division of the Employment Standards Administration in the U.S. Department of Labor responsible for enforcing contractors' compliance with Executive Order 11246, which prohibits job discrimination on the basis of race, color, gender, religion, or national origin. — Abbr. OFCCP. See EMPLOYMENT STANDARDS ADMINISTRATION; DEPARTMENT OF LABOR.

**OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT**

Office of Federal Housing Enterprise Oversight. A unit in the U.S. Department of Housing and Urban Development responsible for overseeing the financial safety and soundness of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac). — Abbr. OFHEO.

**OFFICE OF GOVERNMENT ETHICS**

Office of Government Ethics. An independent agency in the executive branch responsible for issuing rules and regulations about ethical conduct and financial disclosure, providing training in ethics, monitoring the ethics of practices in departments and agencies, and giving guidance on matters of ethics. • The agency was established under the Ethics in Government Act of 1978 and became a separate agency in 1988. — Abbr. OGE.

**OFFICE OF HEALTHY HOMES AND LEAD HAZARD CONTROL**

Office of Healthy Homes and Lead Hazard Control. A unit office in the U.S. Department of Housing and Urban Development responsible for informing the public about the dangers of lead poisoning, esp. by lead-based paint; developing methods of detection and abatement; encouraging states and local governments to develop prevention programs; and implementing the Department's



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Healthy Home Initiative to warn the public of other potential household hazards. — Abbr. OHHLHC.

#### OFFICE OF HONOR

office of honor. See OFFICE.

#### OFFICE OF HOUSING

Office of Housing. A unit in the U.S. Department of Housing and Urban Development responsible for administering aid for building and financing new and rehabilitated housing and for preserving existing housing.

#### OFFICE OF INITIAL PATENT EXAMINATION

Office of Initial Patent Examination. The section of the U.S. Patent and Trademark Office that determines whether a new patent application is in the correct form, whether the claims are dependent or independent, how much the application fee should be, and to which examining group the application should be assigned. — Abbr. OIPE.

#### OFFICE OF LABOR–MANAGEMENT STANDARDS

Office of Labor–Management Standards. The division of the Employment Standards Administration in the U.S. Department of Labor responsible for enforcing the Labor–Management Reporting and Disclosure Act of 1959, which establishes standards for labor-union management and financial operations. • The Act sets out a list of union-members' rights, including the right to fair elections of union leaders, the right to know about the union's administrative policies and financial transactions, and the right to have union funds safeguarded. — Abbr. OLMS. See EMPLOYMENT STANDARDS ADMINISTRATION.

#### OFFICE OF MANAGEMENT AND BUDGET

Office of Management and Budget. An office in the Executive Office of the President responsible for helping the President prepare the annual federal budget and supervising its administration. • It was originally established by Reorganization Plan No. 1 of 1939 as the Bureau of the Budget. — Abbr. OMB.

#### OFFICE OF MEDICAL SERVICES

Office of Medical Services. A unit in the U.S. Department of State responsible for providing primary healthcare services for the Department's overseas employees and their eligible family members. — Abbr. MED.

#### OFFICE OF NATIONAL DRUG CONTROL POLICY

Office of National Drug Control Policy. An office in the Executive Office of the President responsible for coordinating efforts at federal, state, and local levels to control illegal drug abuse and for devising national antidrug activities. • The Office was created by the National Narcotics Leadership Act of 1988. 21 USCA §§ 1701–1713. — Abbr. ONDCP.

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**OFFICE OF OCEANIC AND ATMOSPHERIC RESEARCH**

Office of Oceanic and Atmospheric Research. See NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION .

**OFFICE OF PASSPORT SERVICES**

Office of Passport Services. See BUREAU OF CONSULAR AFFAIRS.

**OFFICE OF PERSONNEL MANAGEMENT**

Office of Personnel Management. The independent federal agency that administers the personnel system of the government by helping agencies recruit and evaluate employees; manage retirement and health-benefit systems; coordinate temporary assignments; conduct investigations; and develop leadership in the federal executive service. • The agency was established by Reorganization Plan No. 2 of 1978 and given various functions of the former U.S. Civil Service Commission by Executive Order 12107 of 1978. — Abbr. OPM. See CIVIL SERVICE COMMISSION .

**OFFICE OF POLICY DEVELOPMENT**

Office of Policy Development. An office in the Executive Office of the President comprising the Domestic Policy Council and the National Economic Council. • It was established in 1993 by Executive Order 12859. — Abbr. OPD.

**OFFICE OF PRIVATE SECTOR LIAISON**

Office of Private Sector Liaison. A unit in the U.S. Department of Homeland Security responsible for working with individual businesses through trade associations and other nongovernmental organizations on matters of security.

**OFFICE OF PROTOCOL**

Office of Protocol. A unit in the U.S. Department of State responsible for advising the President, the Vice President, the Secretary of State, and other U.S. officials on matters of custom and decorum, and for planning and hosting state dinners and other affairs, esp. involving foreign heads of state and other diplomats. • The Office also manages the Blair House, where diplomatic visitors often stay. It is run by the Chief of Protocol.

**OFFICE OF PUBLIC AND INDIAN HOUSING**

Office of Public and Indian Housing. A unit in the U.S. Department of Housing and Urban Development responsible for providing technical assistance and operating subsidies to public-housing agencies and Indian housing authorities in developing low-income housing. — Abbr. PIH.

**OFFICE OF SCIENCE AND TECHNOLOGY POLICY**

Office of Science and Technology Policy. An office in the Executive Office of the President responsible for advising the President on scientific, engineering, and technological development

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and for coordinating research and development programs. • The Office was created by the National Science and Technology Policy, Organization, and Priorities Act of 1976. — Abbr. OSTP.

#### OFFICE OF SPECIAL COUNSEL

Office of Special Counsel. An independent federal agency that investigates activities prohibited by the civil-service laws, rules, and regulations and, if the investigation warrants it, litigates the matter before the Merit Systems Protection Board. • The agency was established by Reorganization Plan No. 2 of 1978. — Abbr. OSC.

#### OFFICE OF STATE AND LOCAL GOVERNMENT COORDINATION

Office of State and Local Government Coordination. A unit in the U.S. Department of Homeland Security responsible for coordinating security matters with state and local governments.

#### OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

Office of Surface Mining Reclamation and Enforcement. A unit in the U.S. Department of the Interior responsible for protecting against the adverse effects of surface coal mining by enforcing laws relating to surface mining and restoration and by assisting states and local governments, which have primary responsibility in this area. — Abbr. OSM.

#### OFFICE OF TAX-SHELTER ANALYSIS

Office of Tax-Shelter Analysis. An office in the U.S. Internal Revenue Service responsible for identifying and investigating questionable tax shelters. • The Office was created in 2000. — Abbr. OTSA.

#### OFFICE OF TECHNOLOGY ASSESSMENT

Office of Technology Assessment. A former office in the legislative branch of the federal government responsible for analyzing public-policy issues relating to science and technology. • The Office was active from 1972 to 1995. — Abbr. OTA.

#### OFFICE OF TECHNOLOGY POLICY

Office of Technology Policy. See TECHNOLOGY ADMINISTRATION.

#### OFFICE OF THE COMPTROLLER OF THE CURRENCY

Office of the Comptroller of the Currency. An office in the U.S. Department of the Treasury responsible for regulating approximately 2,600 national banks by examining them; approving or denying applications for bank charters, branches, or mergers; closing banks that fail to follow rules and regulations; and regulating banking practices. — Abbr. OCC.

#### OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Office of the United States Trade Representative. An office in the Executive Office of the President responsible for setting and administering overall trade policy. • It was established under Reorganization Plan No. 3 of 1979. 19 USCA § 2171.

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**OFFICE OF THRIFT SUPERVISION**

Office of Thrift Supervision. An office in the U.S. Department of the Treasury responsible for regulating and examining thrift institutions to ensure that they are financially sound. — Abbr. OTS.

**OFFICE OF WORKERS' COMPENSATION PROGRAMS**

Office of Workers' Compensation Programs. The division of the Employment Standards Administration in the U.S. Department of Labor responsible for processing and adjudicating claims under the Federal Employees' Compensation Act, the Longshore and Harbor Workers' Compensation Act, the Black Lung Benefits Reform Act, and similar worker-benefits statutes and regulations. — Abbr. OWCP. See EMPLOYMENT STANDARDS ADMINISTRATION.

**OFFICE PRACTICE**

office practice. A law practice that primarily involves handling matters outside of court, such as negotiating and drafting contracts, preparing wills and trusts, setting up corporations and partnerships, and advising on tax or employment issues.

**OFFICE PRACTITIONER**

office practitioner. A lawyer who does not litigate; an attorney whose work is accomplished primarily in the office, without court appearances. — Also termed office lawyer; transactional lawyer.

**OFFICER**

officer. 1. A person who holds an office of trust, authority, or command. • In public affairs, the term refers esp. to a person holding public office under a national, state, or local government, and authorized by that government to exercise some specific function. In corporate law, the term refers esp. to a person elected or appointed by the board of directors to manage the daily operations of a corporation, such as a CEO, president, secretary, or treasurer. Cf. DIRECTOR(2). [Cases: Officers and Public Employees 1. C.J.S. Officers and Public Employees §§ 1–9, 12–17, 21.]

acting officer. One performing the duties of an office — usu. temporarily — but who has no claim of title to the office. [Cases: Officers and Public Employees 77. C.J.S. Officers and Public Employees § 6.]

administrative officer. 1. An officer of the executive department of government, usu. of inferior rank. [Cases: Officers and Public Employees 1. C.J.S. Officers and Public Employees §§ 1–9, 12–17, 21.] 2. A ministerial or executive officer, as distinguished from a judicial officer. 3. Family law. An official, other than a judge, who is appointed to preside over child-support matters. See CHILD-SUPPORT-ENFORCEMENT AGENCY. Cf. MASTER(2); JUDGE.

attendance officer. See TRUANCY OFFICER.

chief executive officer. See CHIEF EXECUTIVE OFFICER.

constitutional officer. A government official whose office is created by a constitution, rather than by a statute; one whose term of office is fixed and defined by a constitution. [Cases: States 46. C.J.S. States §§ 61, 80, 84, 102.]

corporate officer. An officer of a corporation, such as a CEO, president, secretary, or treasurer. [Cases: Corporations 296. C.J.S. Corporations §§ 460, 468–469.]

county officer. An officer whose authority and jurisdiction are confined to the limits of the county served. [Cases: Counties 61. C.J.S. Counties § 97.]

court officer. See OFFICER OF THE COURT.

de facto officer. See officer de facto.

de jure officer. See officer de jure.

escrow officer. See escrow agent under AGENT(2).

executive officer. See EXECUTIVE(2).

fiscal officer. 1. The person (such as a state or county treasurer) charged with the collection and distribution of public money. [Cases: Counties 90. C.J.S. Counties § 132.] 2. The person (such as a chief financial officer) whose duties are to oversee the financial matters of a corporation or business.

health officer. See HEALTH OFFICER.

hearing officer. 1. ADMINISTRATIVE-LAW JUDGE. 2. See judicial officer (3).

inferior officer. 1. An officer who is subordinate to another officer. 2. A United States officer appointed by the President, by a court, or by the head of a federal department. • Senate confirmation is not required. See United States officer.

judicial officer. 1. A judge or magistrate. [Cases: Judges 1; United States Magistrates 11. C.J.S. Judges §§ 2–7; United States Commissioners §§ 2–6.] 2. Any officer of the court, such as a bailiff or court reporter. [Cases: Courts 55–58. C.J.S. Courts §§ 107–110; Stenographers §§ 2–21.] 3. A person, usu. an attorney, who serves in an appointive capacity at the pleasure of an appointing judge, and whose actions and decisions are reviewed by that judge. — Also termed magistrate; referee; special master; commissioner; hearing officer.

juvenile officer. A juvenile-court employee, sometimes a social worker or probation officer, who works with the judge to direct and develop the court's child-welfare work. — Also termed county agent. [Cases: Courts 55; Infants 17. C.J.S. Courts §§ 107–109; Infants §§ 8–9.]

law-enforcement officer. See LAW-ENFORCEMENT OFFICER.

legislative officer. 1. A member of a federal, state, or municipal legislative body. [Cases: United States 17. C.J.S. United States §§ 32–33.] 2. A government official whose duties relate primarily to the enactment of laws, such as a federal or state senator, representative, or assembly member. • State and federal constitutions generally restrict legislative officers' duties to the

enactment of legislation. But legislative officers occasionally exercise judicial functions, such as presenting or hearing cases of impeachment of other government officers.

ministerial officer. An officer who primarily executes mandates issued by the officer's superiors. • One who performs specified legal duties when the appropriate conditions have been met, but who does not exercise personal judgment or discretion in performing those duties. [Cases: Municipal Corporations 123. C.J.S. Municipal Corporations §§ 328, 330.]

municipal officer. A person who occupies a municipal office — usu. mandated by statute or charter — and who may be required to take an oath and exercise sovereign authority in carrying out public duties, with compensation incident to the office irrespective of the actual services rendered. [Cases: Municipal Corporations 123. C.J.S. Municipal Corporations §§ 328, 330.]

officer de facto (di fak-toh). 1. An officer who exercises the duties of an office under color of an appointment or election, but who has failed to qualify for office for any one of various reasons, as by being under the required age, having failed to take the oath, having not furnished a required bond, or having taken office under a statute later declared unconstitutional. [Cases: Officers and Public Employees 39. C.J.S. Officers and Public Employees §§ 339, 341, 343, 347.] 2. Corporations. One who is acting under color of right and with apparent authority, but who is not legally a corporate officer. • The corporation is bound by all acts and contracts of an officer de facto in the same way as it is with those of an officer de jure. — Also termed de facto officer. [Cases: Corporations 289. C.J.S. Corporations §§ 458–459.]

officer de jure (di juur-ee). 1. An officer who exercises the duties of an office for which the holder has fulfilled all the qualifications. [Cases: Officers and Public Employees 35. C.J.S. Officers and Public Employees § 58.] 2. A duly authorized corporate officer. — Also termed de jure officer.

peace officer. See PEACE OFFICER.

police officer. See POLICE OFFICER.

presiding officer. See presiding officer (3) under OFFICER(2).

principal officer. 1. An officer with the most authority of the officers being considered for some purpose. 2. A United States officer appointed by the President with the advice and consent of the Senate. — Also termed primary officer. See United States officer.

probation officer. A government officer who supervises the conduct of a probationer. [Cases: Courts 55; Sentencing and Punishment 1988. C.J.S. Courts §§ 107–109; Criminal Law § 1559.]

recording officer. See SECRETARY(3).

safety officer. An OSHA employee responsible for investigating the safety practices and procedures at a place of business. See OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970.

state officer. 1. A person whose authority or jurisdiction extends to the general public or state as a whole, as distinguished from an officer whose authority and jurisdiction are confined to the

limits of a particular political subdivision. [Cases: States 44. C.J.S. States §§ 80, 82.] 2. An officer exercising authority under a state — rather than the federal — government.

subordinate officer. 1. An officer ranking below and performing under the direction of another officer. 2. An independent officer subject only to statutory direction.

truancy officer. See TRUANCY OFFICER.

trust officer. A trust-company official responsible for administering funds held by the company as a trustee.

United States officer. An officer appointed under the authority of the federal government; specif., an officer appointed in the manner described in Article II, section 2, of the U.S. Constitution. [Cases: United States 35. C.J.S. United States §§ 23, 53, 56–57.]

2. Military law. One who holds a commission in the armed services, or a military post higher than that of the lowest ranks; a person who has a command in the armed forces. — Also termed military officer. [Cases: Armed Services 6. C.J.S. Armed Services § 25.]

brevet officer (br<<schwa>>-vetorbrev-it). A military officer who holds a nominal rank above that for which the person is paid. [Cases: Armed Services 8. C.J.S. Armed Services § 26.]

commissioned officer. An officer in the armed forces who holds grade and office under a presidential commission. [Cases: Armed Services 6. C.J.S. Armed Services § 25.]

general officer. A military officer whose command extends to a body of forces composed of several regiments. • Examples are generals, lieutenant-generals, major-generals, and brigadiers. [Cases: Armed Services 8. C.J.S. Armed Services § 26.]

legal officer. 1. The officer responsible for handling military justice within a command. 2. The adviser and assistant to a commanding officer on military-law matters. 3. Any commissioned officer of the Navy, Marine Corps, or Coast Guard who has been designated to perform legal duties for a command.

noncommissioned officer. An enlisted person in the Army, Air Force, or Marine Corps in certain pay grades above the lowest pay grade. • Examples are sergeants and corporals.

officer of the day. An officer who has charge, for the time being, of the guard, prisoners, and police of a military force or camp. — Also termed orderly officer.

officer of the guard. A commissioned officer whose detail is to command the guard of a military force or camp. • The officer of the guard is under the command of the officer of the day.

orderly officer. See officer of the day.

petty officer. An enlisted person in the Navy or Coast Guard with a pay-grade of E-4 or higher.

preliminary-inquiry officer. Military law. The person, usu. an officer, who conducts a preliminary inquiry.

presiding officer. 1. The president of the court in a special court-martial that does not have a military judge. 2. In a court-martial with a military judge, the military judge. [Cases: Military Justice 881. C.J.S. Military Justice § 148.] 3. An officer who presides, esp. over a civilian court or deliberative assembly. See CHAIR(1); PRESIDE.

superior commissioned officer. A commissioned officer who is superior in command or rank.

warrant officer. 1. A person who holds a commission or warrant in a warrant-officer grade. • A warrant officer's rank is below a second lieutenant or ensign but above cadets, midshipmen, and enlisted personnel. 2. SERGEANT-AT-ARMS (4).

#### OFFICER OF THE COURT

officer of the court. A person who is charged with upholding the law and administering the judicial system. • Typically, officer of the court refers to a judge, clerk, bailiff, sheriff, or the like, but the term also applies to a lawyer, who is obliged to obey court rules and who owes a duty of candor to the court. — Also termed court officer. [Cases: Courts 55–58. C.J.S. Courts §§ 107–110; Stenographers §§ 2–21.]

#### OFFICER OF THE PEACE

officer of the peace. See PEACE OFFICER.

#### OFFICER'S REPORT

officer's report. See REPORT.

#### OFFICIAL

official (<<schwa>>-fish-<<schwa>>l), adj. 1. Of or relating to an office or position of trust or authority <official duties>. 2. Authorized or approved by a proper authority <a company's official policy>.

official, n. 1. One who holds or is invested with a public office; a person elected or appointed to carry out some portion of a government's sovereign powers. — Also termed public official. [Cases: Officers and Public Employees 1. C.J.S. Officers and Public Employees §§ 1–9, 12–17, 21.] 2. One authorized to act for a corporation or organization, esp. in a subordinate capacity. [Cases: Corporations 303. C.J.S. Corporations § 471.] 3. (usu. cap.) OFFICIAL PRINCIPAL.

#### OFFICIAL BOND

official bond. See BOND(2).

#### OFFICIAL-CAPACITY SUIT

official-capacity suit. See SUIT.

#### OFFICIAL CORRUPTION

official corruption. See official misconduct under MISCONDUCT.

#### OFFICIAL GAZETTE



Official Gazette. Patents & trademarks. Either of two weekly publications of the U.S. Patent and Trademark Office: one for patents, publishing abstracts of new patents; and one for trademarks, publishing samples of trademarks proposed for registration. — Abbr. OG.

**OFFICIAL LIABILITY**

official liability. See LIABILITY.

**OFFICIAL MISCONDUCT**

official misconduct. See MISCONDUCT.

**OFFICIAL NEWSPAPER**

official newspaper. See NEWSPAPER.

**OFFICIAL PRINCIPAL**

official principal. (usu. cap.) Eccles. law. A person appointed by an archbishop, bishop, or archdeacon to exercise jurisdiction in and preside over an ecclesiastical court. — Sometimes shortened to official.

**OFFICIAL PRIVILEGE**

official privilege. See PRIVILEGE(1).

**OFFICIAL REPORT**

official report. See REPORT(3).

**OFFICIAL SHORTHAND WRITER**

official shorthand writer. See COURT REPORTER(1).

**OFFICIAL USE**

official use. See USE(4).

**OFFICINA BREVIUM**

officina brevium (aw-f<<schwa>>-sI-n<<schwa>> bree-vee-<<schwa>>m). [Latin “workshop of writs”] Hist. OFFICINA JUSTITIAE.

**OFFICINA JUSTITIAE**

officina justitiae (aw-f<<schwa>>-sI-n<<schwa>> j<<schwa>>s-tish-ee-ee). [Latin “workshop of justice”] Hist. The court of chancery, where the king's writs were issued. — Also termed officina brevium. See CHANCERY.

**OFFICIO**

officio. See EX OFFICIO.

**OFFICIOUS INTERMEDDLER**

officious intermeddler (<<schwa>>-fish-<<schwa>>s). A person who confers a benefit on another without being requested or having a legal duty to do so, and who therefore has no legal grounds to demand restitution for the benefit conferred. — Sometimes shortened to intermeddler. [Cases: Implied and Constructive Contracts 3. C.J.S. Implied and Constructive Contracts § 5.]

#### OFFICIOUSNESS

officiousness (<<schwa>>-fish-<<schwa>>s-n<<schwa>>s), n. Interference in the affairs of others without justification under the circumstances. — officious,adj.

#### OFFICIOUS TESTAMENT

officious testament.See TESTAMENT.

#### OFFICIOUS WILL

officious will.See officious testament under TESTAMENT.

#### OFFICIUM VIRILE

officium virile (<<schwa>>-fish-ee-<<schwa>>m v<<schwa>>-rI-lee). [Latin] Roman law. A man's office. • Certain offices, such as tutor and curator, could be discharged only by men.

#### OFF-LABEL USE

off-label use.Use of prescription medicine or medical products for conditions and in circumstances not approved by the Food and Drug Administration.

#### OFF POINT

off point.Not discussing the precise issue at hand; irrelevant. Cf. ON POINT.

#### OFFSET

offset,n. Something (such as an amount or claim) that balances or compensates for something else; SETOFF.

“Both setoff and recoupment existed at common law, but their scope has been modified, expanded, and ultimately merged by subsequent statutory and decisional law. The final equitable concept of ‘offset’ recognizes that the debtor may satisfy a creditor's claim by acquiring a claim that serves to counterbalance or to compensate for the creditor's claim.... [C]ourts use the terms ‘offset’ and ‘setoff’ interchangeably, often switching between them from sentence to sentence, supporting the conclusion that there is no substantive difference between them.” 4 Ann Taylor Schwing, California Affirmative Defenses 2d § 44:1, at 4–5 (1996).

offset,vb. To balance or calculate against; to compensate for <the gains offset the losses>.

#### OFFSET ACCOUNT

offset account.See ACCOUNT.

#### OFFSHORE TRUST

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offshore trust.See foreign-situs trust under TRUST.

**OFFSPRING**

offspring. Children; issue; progeny.

**OFF-THE-BOARD**

off-the-board,adj. See OFF-BOARD.

**OFF THE RECORD**

off the record. 1. (Of a statement, comment, or testimony) not recorded as official evidence of a proceeding, such as a trial or deposition. 2. (Of a statement) not intended for quotation or attribution. • In either sense, whenever the phrase appears before the noun it modifies, it should be hyphenated <off-the-record comments>. Cf. ON THE RECORD.

**OFF-YEAR ELECTION**

off-year election.See ELECTION(3).

**OFHEO**

OFHEO.abbr.OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT.

**OFR**

OFR.abbr. Office of Federal Register. See FEDERAL REGISTER.

**OF RECORD**

of record. 1. Recorded in the appropriate records <counsel of record>. See attorney of record under ATTORNEY. 2. (Of a court) that has proceedings taken down stenographically or otherwise documented <court of record>. See court of record under COURT.

**OF THE ESSENCE**

of the essence.(Of a contractual requirement) so important that if the requirement is not met, the promisor will be held to have breached the contract and a rescission by the promisee will be justified <time is of the essence>. [Cases: Contracts 211; Vendor and Purchaser 78.C.J.S. Contracts § 583; Vendor and Purchaser § 140.]

**OG**

OG.abbr. OFFICIAL GAZETTE.

**OGE**

OGE. See OFFICE OF GOVERNMENT ETHICS.

**OHHLHC**

OHHLHC.abbr.OFFICE OF HEALTHY HOMES AND LEAD HAZARD CONTROL.

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**OID**

OID.abbr.ORIGINAL-ISSUE DISCOUNT.

**OIL-AND-GAS LEASE**

oil-and-gas lease.See LEASE.

**OIPE**

OIPE.abbr. OFFICE OF INITIAL PATENT EXAMINATION.

**OIREACTAS**

Oireachtas (air-<<schwa>>k-th<<schwa>>s oreer-<<schwa>>k-t<<schwa>>s). The Parliament of the Republic of Ireland.

**OLD-AGE AND SURVIVORS' INSURANCE**

Old-Age and Survivors' Insurance.A system of insurance, subsidized by the federal government, that provides retirement benefits for persons who reach retirement age and payments to survivors upon the death of the insured. • This was the original name for the retirement and death benefits established by the Social Security Act of 1935. As the scope of these benefits expanded, the name changed to Old Age, Survivors, and Disability Insurance (OASDI), and then to Old Age, Survivors, Disability, and Health Insurance (OASDHI). Today, the system is most often referred to as social security. — Abbr. OASI. See SOCIAL SECURITY ACT. [Cases: Social Security and Public Welfare 121–140.3. C.J.S. Social Security and Public Welfare §§ 4–5, 18–32, 34–49, 58, 60.]

**OLD BUSINESS**

old business.See unfinished business under BUSINESS.

**OLD COMBINATION**

old combination.See COMBINATION.

**OLD-COMBINATION REJECTION**

old-combination rejection.See REJECTION.

**OLDNATURA BREVIUM**

Old Natura Brevium (n<<schwa>>-t[y]oor-<<schwa>> bree-vee-<<schwa>>m).Hist. A treatise on the writs in use during the reign of Edward III. — Abbr. O.N.B. See BREVE.

**OLD-SOLDIER'S RULE**

old-soldier's rule.See EGGSHELL-SKULL RULE.

**OLD STYLE**

old style.The system of ordering time according to the Julian method, introduced by Julius

Caesar in 46 B.C., by which all years have 365 days except the years divisible by 4, which have 366 days. • This differs from the modern calendar in that it assumes that there are exactly 365.25 days in a year. But there are actually slightly less than 365.25 days in a year, so the old-style calendar adds too many days over time. The Julian calendar was reformed by Pope Gregory XIII in 1582. — Abbr. o.s. — Also termed Julian calendar. Cf. NEW STYLE.

#### OLÉRON, LAWS OF

Oléron, laws of (oh-l<<schwa>>-ron or aw-lay-ron). See LAWS OF OLÉRON.

#### OLIGARCHY

oligarchy (ol-<<schwa>>-gahr-kee), n. A government in which a small group of persons exercises control; the persons who constitute such a government. — oligarchic, oligarchical,adj.

#### OLIGOPOLISTIC PRICE COORDINATION

oligopolistic price coordination. See CONSCIOUS PARALLELISM.

#### OLIGOPOLY

oligopoly (ol-<<schwa>>-gop-<<schwa>>-lee), n. Control or domination of a market by a few large sellers, creating high prices and low output similar to those found in a monopoly. Cf. MONOPOLY. — oligopolistic,adj. — oligopolist,n.

“One reason for the difficulty in describing and delimiting oligopoly power is the large number of variables that confront any theorist building an oligopoly model. Pure monopoly is akin to a single player game, such as solitaire, but the oligopoly model may be more like a multihand poker game.... Unlike poker, where for any hand one player will win all of the money bet, the players in an oligopolistic market can actually increase the returns that all of them receive through disciplined pricing.” Lawrence A. Sullivan & Warren S. Grimes, *The Law of Antitrust: An Integrated Handbook* 38–39 (2000).

#### OLIGOPSONY

oligopsony (ol-<<schwa>>-gop-s<<schwa>>-nee), n. Control or domination of a market by a few large buyers or customers. — oligopsonistic,adj. — oligopsonist,n.

#### OLMS

OLMS.abbr.OFFICE OF LABOR–MANAGEMENT STANDARDS.

#### OLOGRAPH

olograph,n. See HOLOGRAPH. — olographic,adj.

#### OLOGRAPHIC WILL

olographic will. See holographic will under WILL.

#### OMB

OMB.abbr. OFFICE OF MANAGEMENT AND BUDGET.

#### OMBUDSMAN

ombudsman (om-b<<schwa>>dz-m<<schwa>>n).1. An official appointed to receive, investigate, and report on private citizens' complaints about the government. 2. A similar appointee in a nongovernmental organization (such as a company or university). — Often shortened to ombuds.

“An ombudsman serves as an alternative to the adversary system for resolving disputes, especially between citizens and government agencies .... An ombudsman is ... (1) an independent and nonpartisan officer of the legislature who supervises the administration; (2) one who deals with specific complaints from the public against administrative injustice and maladministration; and (3) one who has the power to investigate, criticize and publicize, but not to reverse administration action.” 4 Am. Jur. 2d Alternative Dispute Resolution § 23 (1995).

#### OMISSA ET MALE APPRETIATA

omissa et male appretiata (<<schwa>>-mis-<<schwa>> et mal-ee <<schwa>>-pree-shee-ay-t<<schwa>>). [Law Latin] Hist. Things omitted and erroneously valued.

“When an executor confirms and omits in the inventory part of the defunct's effects, he may have the mistake corrected. But if he do not take steps for this purpose, any one interested in the succession may apply, either to have the executor compelled to confirm the omission, or himself to confirm it. Ordinary executors ad omissa et male appretiata ought to call the principal executor to their confirmation, or it will be null; but this rule does not hold in the case of executors–creditors.” William Bell, *Bell's Dictionary and Digest of the Law of Scotland* 753 (George Watson ed., 7th ed. 1890).

#### OMISSION

omission,n.1. A failure to do something; esp., a neglect of duty <the complaint alleged that the driver had committed various negligent acts and omissions>.2. The act of leaving something out <the contractor's omission of the sales price rendered the contract void>.3. The state of having been left out or of not having been done <his omission from the roster caused no harm>.4. Something that is left out, left undone, or otherwise neglected <the many omissions from the list were unintentional>. — Formerly also termed omittance. — omit,vb. — omissive, omissible,adj.

#### OMITTANCE

omittance.Archaic. OMISSION.

#### OMNE JUS REALE

omne jus reale (om-nee j<<schwa>>s ree-ay-lee). [Law Latin] Hist. Every real right.

#### OMNE QUOD IN SE ERAT

omne quod in se erat (om-nee kwod in see er-at). [Latin] Hist. All that one had in his power.

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**OMNIBUS**

omnibus (om-ni-b<<schwa>>s), adj. Relating to or dealing with numerous objects or items at once; including many things or having various purposes.

**OMNIBUS BILL**

omnibus bill. See BILL(3).

**OMNIBUS CLAIM**

omnibus claim. See PATENT CLAIM.

**OMNIBUS CLAUSE**

omnibus clause. 1. A provision in an automobile-insurance policy that extends coverage to all drivers operating the insured vehicle with the owner's permission. [Cases: Insurance 2663. C.J.S. Insurance §§ 1054–1055.]

statutory omnibus clause. Insurance. An omnibus clause provided by statute.

**2.RESIDUARY CLAUSE.****OMNIBUS COUNT**

omnibus count. See COUNT.

**OMNIBUS HEARING**

omnibus hearing. See HEARING.

**OMNIBUS MOTION**

omnibus motion. See MOTION(1).

**OMNI EXCEPTIONE MAJOR**

omni exceptione major (om-nee ek-sep-shee-oh-nee may-jor). [Law Latin] Scots law. Beyond all exception. • The phrase often referred to witnesses of such exceptional character that their testimony was above suspicion.

**OMNIUM**

omnium (om-nee-<<schwa>>m), n. The total amount or value of the items in a combined fund or stock. • The term is used primarily in mercantile law and in Great Britain.

**OMNIUM BONORUM**

omnium bonorum (om-nee-<<schwa>>m b<<schwa>>-nor-<<schwa>>m). [Latin] Roman & Scots law. Of all goods. • The phrase appeared in reference to a conveyance of or partnership in one's entire estate.

**OMVI**

OMVI.abbr.Operating a motor vehicle while intoxicated. See DRIVING UNDER THE INFLUENCE .

OMVUI

OMVUI.abbr.Operating a motor vehicle while under the influence. See DRIVING UNDER THE INFLUENCE .

ON ALL FOURS

on all fours.(Of a law case) squarely on point (with a precedent) on both facts and law; nearly identical in all material ways <our client's case is on all fours with the Supreme Court's most recent opinion>. Cf. WHITEHORSE CASE.

“The courts, nowadays, are governed largely by precedent, and this imposes on the advocate the necessity of supporting his client's cause by concrete authorities — cases ‘on all fours’ with, or at least analogous to, the case at bar.” William M. Lile et al., *Brief Making and the Use of Law Books* 98 (3d ed. 1914).

O.N.B.

O.N.B.abbr.OLD NATURA BREVIVM.

ONBOARD BILL OF LADING

onboard bill of lading.See BILL OF LADING.

ONDCP

ONDCP.abbr. OFFICE OF NATIONAL DRUG CONTROL POLICY.

ON DEMAND

on demand.When presented or upon request for payment <this note is payable on demand>. — Also termed on call. See PAYABLE. [Cases: Bills and Notes 129(3). C.J.S. Bills and Notes; Letters of Credit§ 90.]

ONE-ACTION RULE

one-action rule.In debtor-creditor law, the principle that when a debt is secured by real property, the creditor must foreclose on the collateral before proceeding against the debtor's unsecured assets. — Also termed one-form-of-action rule. [Cases: Mortgages 218.4, 337, 411.C.J.S. Mortgages §§ 325–326, 335, 456, 473, 494, 581.]

ONE-BOOK RULE

one-book rule.The requirement or practice that only one version of the Sentencing Guidelines be used to calculate all aspects of a defendant's sentence.

ONE-COURT-OF-JUSTICE DOCTRINE

one-court-of-justice doctrine.A principle in some states holding that there is but a single court



in the state and that this court is composed of several divisions, such as the supreme court, the courts of appeals, and district courts, probate courts, and any other legislatively created courts. • Michigan, for example, has embodied this doctrine in its constitution (art. VI, § 1). — Also termed one court of justice. [Cases: Courts 1.C.J.S. Courts §§ 2, 6, 9, 12–15.]

#### ONE-DAY, ONE-TRIAL METHOD

one-day, one-trial method. A system of summoning and using jurors whereby a person answers a jury summons and participates in the venire for one day only, unless the person is actually empaneled for a trial, in which event the juror's service lasts for the entire length of the trial. • This system, which is used in several states, reduces the average term of service and expands the number of individual jurors called. [Cases: Jury 76.C.J.S. Juries §§ 352, 511–512.]

#### ONE-FORM-OF-ACTION RULE

one-form-of-action rule. See ONE-ACTION RULE.

#### ONE-HALF PLUS ONE

one-half plus one. See HALF PLUS ONE.

#### ONE-MONTH LIQUIDATION

one-month liquidation. See LIQUIDATION.

#### ONE-PARTY CONSENT RULE

one-party consent rule. The principle that one party to a telephone or other conversation may secretly record the conversation. • This principle applies in most but not all states.

#### ONE-PERSON, ONE-VOTE RULE

one-person, one-vote rule. Constitutional law. The principle that the Equal Protection Clause requires legislative voting districts to have about the same population. *Reynolds v. Sims*, 377 U.S. 533, 84 S.Ct. 1362 (1964). — Also termed one-man, one-vote rule. See APPORTIONMENT. [Cases: Constitutional Law 225.3(2). C.J.S. Constitutional Law § 818.]

#### ONERANDO PRO RATA PORTIONE

onerando pro rata portione. See DE ONERANDO PRO RATA PORTIONE.

#### ONERARE

onerare (on-⟨schwa⟩-rair-ee), vb. [Latin] Hist. To burden or load.

#### ONERA REALIA

onera realia (on-⟨schwa⟩r-⟨schwa⟩ ree-ay-lee-⟨schwa⟩). [Law Latin] Scots law. Real burdens.

“Onera realia ... are burdens or encumbrances affecting land, and exigible from it. They are distinguished from personal burdens, which only affect and are exigible from the person upon

whom they lie. A single example may illustrate the nature of both. It is a common enough practice, when lands are sold, for the seller not to insist on payment of the full price at the time of the sale, but to allow a part of the price to remain on the lands as a burden. If the balance so left be declared ... to be a real lien ... it is a burden for which the lands may be attached and sold, into whose possession soever they may come. But if the burden of payment of the remainder of the price be laid upon the purchaser alone, and not upon the lands, then the burden is personal, and a subsequent purchaser from him incurs no liability therefor, the lands not being affected. John Trayner, *Trayner's Latin Maxims* 423 (4th ed. 1894).

#### ONERARI NON

onerari non (on-*<<schwa>>*-rair-I non). [Law Latin] Hist. Ought not to be charged. • In pleading, these words were used by a defendant to begin a plea in a debt action. Cf. *ACTIO NON*.

#### ONERATIO

oneratio (on-*<<schwa>>*-ray-shee-oh). [Law Latin] Hist. A cargo or lading.

#### ONERIS FERENDI

oneris ferendi (on-*<<schwa>>*-ris f*<<schwa>>*-ren-dI). [Latin] Roman law. Of bearing a weight or burden. See *servitus oneris ferendi* under *SERVITUS*; *JUS ONERIS FERENDI* ; *PARIES ONERI FERENDO, UTI NUNC EST, ITA SIT*.

#### ONEROUS

onerous (oh-n*<<schwa>>*r-*<<schwa>>*s oron-*<<schwa>>*r-*<<schwa>>*s), adj. 1. Excessively burdensome or troublesome; causing hardship <onerous discovery requests>. 2. Having or involving obligations that outweigh the advantages <onerous property>. 3. Civil law. Done or given in return for something of equivalent value; supported by consideration <an onerous contract>. Cf. *GRATUITOUS*(1). — onerousness, n.

#### ONEROUS CAUSE

onerous cause. Civil law. An advantage obtained in exchange for a contractual obligation. See *La. Civ. Code arts. 1909, 1967*.

#### ONEROUS CONTRACT

onerous contract. See *CONTRACT*.

#### ONEROUS DEED

onerous deed. See *DEED*.

#### ONEROUS DONATION

onerous donation. See *DONATION*.

#### ONEROUS GIFT

onerous gift. See *GIFT*.

**ONEROUS TITLE**

onerous title. See TITLE(2).

**ONEROUS TRUST**

onerous trust. See TRUST.

**ONE-SATISFACTION RULE**

one-satisfaction rule. The principle that a plaintiff is entitled to only one recovery for a particular harm, and that the plaintiff must elect a single remedy if the jury has awarded more than one. • This rule is, for example, one of the foundations of a defendant's right to have a jury verdict reduced by the amount of any settlements the plaintiff has received from other entities for the same injury. — Also termed single-recovery rule. [Cases: Damages 15. C.J.S. Damages §§ 21–22.]

**ONE-SUBJECT RULE**

one-subject rule. The principle that a statute should embrace only one topic, which should be stated in its title. — Also termed single-subject rule. [Cases: Statutes 107. C.J.S. Statutes § 208.]

**ONE-TIME CHARGE**

one-time charge. See special charge under CHARGE.

**ONE-WAY RATCHET THEORY**

one-way ratchet theory. See RATCHET THEORY.

**ONE-YEAR RULE**

one-year rule. Patents. The statutory requirement that a patent application must be filed within one year after any publication, public use, sale, or offer for sale of the invention. • If an inventor waits longer than a year, the patent is blocked by this statutory bar. 35 USCA § 102(b).

**ONGOING EARNINGS**

ongoing earnings. See operating earnings under EARNINGS.

**ONLINE SCRIP**

online scrip. See Internet scrip under SCRIP.

**ONOMASTIC**

onomastic (on-<<schwa>>-mas-tik), adj. 1. Of or relating to names or nomenclature. 2. (Of a signature on an instrument) in a handwriting different from that of the body of the document; esp., designating an autograph signature alone, as distinguished from the main text in a different hand or in typewriting. Cf. HOLOGRAPH; SYMBOLIC. — onomastics (for sense 1), n.

**ON OR ABOUT**

on or about.Approximately; at or around the time specified. • This language is used in pleading to prevent a variance between the pleading and the proof, usu. when there is any uncertainty about the exact date of a pivotal event. When used in nonpleading contexts, the phrase is mere jargon.

#### ON PAIN OF

on pain of.Or else suffer punishment for noncompliance. • This phrase usu. follows a command or condition <ordered to cease operations on pain of a \$2,000 fine>.

#### ON POINT

on point.Discussing the precise issue now at hand; apposite <this opinion is not on point as authority in our case>. — Also termed in point. Cf. OFF POINT .

#### ON-SALE BAR

on-sale bar.Patents. A statutory bar prohibiting patent eligibility if an invention was sold or offered for sale more than one year before the patent application is filed. 35 USCA § 102(b). [Cases: Patents 76.C.J.S. Patents §§ 107, 110–111.]

#### ONSET DATE

onset date.The beginning of a period of disability for purposes of disability payments by the Social Security Administration.

#### ON THE BRIEF

on the brief.(Of a lawyer) having participated in preparing a given brief. • The names of all the lawyers on the brief are typically listed on the front cover.

#### ON THE FLOOR

on the floor.Parliamentary law. 1. (Of a motion) under consideration; PENDING (2) <the motion is on the floor>.2. (Of a member) physically present at a meeting and attending to its deliberations <the senator is on the floor>.

#### ON THE MERITS

on the merits.(Of a judgment) delivered after the court has heard and evaluated the evidence and the parties' substantive arguments. [Cases: Judgment 217, 563(2), 649. C.J.S. Judgments §§ 11, 272–273, 727–728, 733–734, 745–746, 787–788, 801–802.]

#### ON THE PLEADINGS

on the pleadings.(Of a judgment) rendered for reasons that are apparent from the faces of the complaint and answer, without hearing or evaluating the evidence or the substantive arguments. See SUMMARY JUDGMENT.

#### ON THE RECORD

on the record. 1. (Of a statement, comment, or testimony) recorded as official evidence of a

proceeding, such as a trial or deposition. 2. (Of a statement) intended for quotation or attribution. • In either sense, whenever the phrase appears before the noun it modifies, it should be hyphenated <an on-the-record statement>. Cf. OFF THE RECORD.

### ONUS

onus (oh-n<<schwa>>s). 1. A burden; a load. 2. A disagreeable responsibility; an obligation. 3. ONUS PROBANDI.

### ONUS PROBANDI

onus probandi (oh-n<<schwa>>s pr<<schwa>>-ban-dl). [Latin] BURDEN OF PROOF. — Often shortened to onus.

### OOH-DNR

OOH-DNR.abbr. See out-of-hospital do-not-resuscitate order under DO-NOT-RESUSCITATE ORDER R.

### OP

op.abbr.(often cap.) 1.OPINION(1).2. Opinions.

### OPD

OPD.abbr. OFFICE OF POLICY DEVELOPMENT.

### OPEC

OPEC (oh-pek).abbr. Organization of Petroleum Exporting Countries.

### OPE ET CONSILIO

ope et consilio (oh-pee et k<<schwa>>n-sil-ee-oh). [Latin] Civil law. By aid and counsel. • The term is usu. applied to accessories to crimes. It is analogous to the common-law concept of aiding and abetting. — Abbr. o.c. — Sometimes shortened to ope consilio. Cf. ART AND PART.

### OPE EXCEPTIONIS

ope exceptionis (oh-pee ek-sep-shee-oh-nis). [Latin “by force of exception”] Hist. In a civil case, a plea asserting a peremptory exception that a document on which the action is based is void.

### OPEN

open,adj. 1. Manifest; apparent; notorious. 2. Visible; exposed to public view; not clandestine. 3. Not closed, settled, fixed, or terminated.

### OPEN ACCOUNT

open account. See ACCOUNT.

### OPEN ADOPTION

open adoption. See ADOPTION.

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**OPEN AND NOTORIOUS**

open and notorious. 1. NOTORIOUS(2). 2. (Of adultery) known and recognized by the public and flouting the accepted standards of morality in the community. [Cases: Adultery 1; Divorce 26. C.J.S. Adultery §§ 2–8; Divorce §§ 60, 70.]

**OPEN AND NOTORIOUS ADULTERY**

open and notorious adultery. See ADULTERY.

**OPEN AND NOTORIOUS COHABITATION**

open and notorious cohabitation. See notorious cohabitation under COHABITATION.

**OPEN AND NOTORIOUS POSSESSION**

open and notorious possession. See notorious possession under POSSESSION.

**OPEN BID**

open bid. See BID(2).

**OPEN CHECK**

open check. See CHECK.

**OPEN CLOSED SHOP**

open closed shop. See SHOP.

**OPEN COURT**

open court. 1. A court that is in session, presided over by a judge, attended by the parties and their attorneys, and engaged in judicial business. • Open court usu. refers to a proceeding in which formal entries are made on the record. The term is distinguished from a court that is hearing evidence in camera or from a judge that is exercising merely magisterial powers. 2. A court session that the public is free to attend. • Most state constitutions have open-court provisions guaranteeing the public's right to attend trials. [Cases: Constitutional Law 328; Federal Civil Procedure 1951; Trial 20. C.J.S. Constitutional Law §§ 1428–1432; Trial § 97.]

**OPEN CREDIT**

open credit. See revolving credit under CREDIT(4).

**OPEN DIPLOMACY**

open diplomacy. See DIPLOMACY.

**OPEN-DOOR LAW**

open-door law. See SUNSHINE LAW.

**OPEN-END**

open-end,adj.1. Allowing for future changes or additions <open-end credit plan>.2. Continually issuing or redeeming shares on demand at the current net asset value <open-end investment company>. — Also termed open-ended.

**OPEN-ENDED CLAIM**

open-ended claim.See PATENT CLAIM.

**OPEN-END FUND**

open-end fund.See MUTUAL FUND.

**OPEN-END MORTGAGE**

open-end mortgage.See MORTGAGE.

**OPEN-END MORTGAGE BOND**

open-end mortgage bond.See BOND(3).

**OPEN ENTRY**

open entry.See ENTRY(1).

**OPEN-FIELDS DOCTRINE**

open-fields doctrine.Criminal procedure. The rule permitting a warrantless search of the area outside a property owner's curtilage. • Unless there is some other legal basis for the search, it must exclude the home and any adjoining land (such as a yard) that is within an enclosure or otherwise protected from public scrutiny. — Also termed open-field doctrine; open-fields rule. Cf. PLAIN-VIEW DOCTRINE. [Cases: Controlled Substances 134; Searches and Seizures 27. C.J.S. Searches and Seizures §§ 36, 71.]

**OPEN FORUM**

open forum.1.GOOD OF THE ORDER. 2.PUBLIC FORUM.

**OPEN GUARANTY**

open guaranty.See continuing guaranty under GUARANTY.

**OPENING A JUDGMENT**

opening a judgment.A court's grant of a motion for a rehearing on the merits but keeping the court's decision in effect.

**OPENING BIDDING**

opening bidding.See OPENING THE BIDDING.

**OPENING STATEMENT**

opening statement.At the outset of a trial, an advocate's statement giving the fact-finder a preview of the case and of the evidence to be presented. • Although the opening statement is not

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supposed to be argumentative, lawyers — purposefully or not — often include some form of argument. The term is thus sometimes referred to as opening argument. [Cases: Criminal Law 702.1; Federal Civil Procedure 1971; Trial 109.C.J.S. Trial §§ 263–275, 316.]

#### OPENING THE BIDDING

opening the bidding. In a sheriff's sale of real property, the unethical practice of setting aside the concluded sale to accept a better post-sale offer. — Also termed opening bidding.

#### OPEN LETTER OF CREDIT

open letter of credit. See LETTER OF CREDIT.

#### OPEN LEWDNESS

open lewdness. See LEWDNESS.

#### OPEN LISTING

open listing. See LISTING(1).

#### OPEN MARKET

open market. See MARKET.

#### OPEN-MEETING LAW

open-meeting law. See SUNSHINE LAW.

#### OPEN MICROPHONE

open microphone. See GOOD OF THE ORDER.

#### OPEN MORTGAGE CLAUSE

open mortgage clause. See MORTGAGE CLAUSE.

#### OPEN NOMINATIONS

open nominations. Parliamentary law. To begin taking nominations from the floor upon passage of a motion.

#### OPEN ORDER

open order. See ORDER(8).

#### OPEN-PERILS POLICY

open-perils policy. See INSURANCE POLICY.

#### OPEN POLICY

open policy. See unvalued policy under INSURANCE POLICY.

#### OPEN POSSESSION



open possession.See notorious possession under POSSESSION.

#### OPEN PRICE

open price.See PRICE.

#### OPEN SEAS

open seas.See high seas under SEA.

#### OPEN SEASON

open season.A specific time of year when it is legal to hunt or catch game or fish. [Cases: Fish 12; Game 3.5.]

#### OPEN SESSION

open session.See SESSION(1).

#### OPEN SHOP

open shop.See SHOP.

#### OPEN-SHOP–CLOSED-SHOP OPERATION

open-shop–closed-shop operation.See DOUBLE-BREASTED OPERATION.

#### OPEN SOURCE

open source,adj. Of or related to software that includes human-readable source code and can be freely revised.

#### OPEN-SOURCE LICENSE

open-source license.See LICENSE.

#### OPEN-SOURCE SOFTWARE

open-source software.Software that is usu. not sold for profit, includes both human-readable source code and machine-readable object code, and allows users to freely copy, modify, or distribute the software. • Even though open-source software is made widely available for free, it may be protected by federal trademark law. See Planetary Motion, Inc. v. Techsplosion, Inc., 261 F.3d 1188 (11th Cir. 2001).

#### OPEN SPACE

open space.Undeveloped (or mostly undeveloped) urban or suburban land that is set aside and permanently restricted to agricultural, recreational, or conservational uses. • The land may be publicly or privately owned. Access may be restricted or unrestricted. Open spaces are not necessarily in a natural state: the term includes land used for public parks, gardens, farms, and pastures. But it does not include structures such as parking lots, swimming pools, or tennis courts.

#### OPEN TOWN

open town.Int'l law. An undefended city in a combat zone that is laid open to the grasp of the attacking forces.

#### OPEN UNION

open union.See UNION.

#### OPEN VERDICT

open verdict.See VERDICT.

#### OPERABILITY

operability.Patents. The ability of an invention to work as described. • A patent examiner may challenge the operability of an invention and require some proof, such as a demonstration of a working model. [Cases: Patents 47. C.J.S. Patents §§ 60–62.]

#### OPERATING AGREEMENT

operating agreement.Oil & gas. A contract among owners of the working interest in a producing oil or gas well setting forth the parties' agreements about drilling, development, operations, and accounting.

#### OPERATING A MOTOR VEHICLE UNDER THE INFLUENCE

operating a motor vehicle under the influence.See DRIVING UNDER THE INFLUENCE.

#### OPERATING A MOTOR VEHICLE WHILE INTOXICATED

operating a motor vehicle while intoxicated.See DRIVING UNDER THE INFLUENCE.

#### OPERATING-COST RATIO

operating-cost ratio.The ratio between the net sales of a business and its operating costs.

#### OPERATING EARNINGS

operating earnings.See EARNINGS.

#### OPERATING EXPENSE

operating expense.See EXPENSE.

#### OPERATING INCOME

operating income.See ordinary income (1) under INCOME.

#### OPERATING INTEREST

operating interest.See WORKING INTEREST.

#### OPERATING LEASE

operating lease.See LEASE.

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**OPERATING PROFIT**

operating profit. See PROFIT(1).

**OPERATING UNDER THE INFLUENCE**

operating under the influence. See DRIVING UNDER THE INFLUENCE.

**OPERATING WHILE INTOXICATED**

operating while intoxicated. See DRIVING UNDER THE INFLUENCE.

**OPERATIONAL**

operational, adj. 1. Engaged in operation; able to function. 2. Ministerial.

**OPERATION OF LAW**

operation of law. The means by which a right or a liability is created for a party regardless of the party's actual intent <because the court didn't rule on the motion for rehearing within 30 days, it was overruled by operation of law>.

**OPERATIONS CLAUSE**

operations clause. Oil & gas. A provision in an oil-and-gas lease specifying that the lease will not expire as long as oil-and-gas development continues on the leased property. See CONTINUOUS-OPERATIONS CLAUSE; WELL-COMPLETION CLAUSE .

**OPERATIVE**

operative, adj. 1. Being in or having force or effect; esp., designating the part of a legal instrument that gives effect to the transaction involved <the operative provision of the contract>. 2. Having principal relevance; essential to the meaning of the whole <may is the operative word of the statute>.

**OPERATIVE CLAUSE**

operative clause. See CLAUSE.

**OPERATIVE CONSTRUCTION**

operative construction. 1. The interpretation of a writing or agreement, esp. a contract, statute, or regulation, that is being relied on by the parties, a court, or an administrative agency. 2. Patents. A working embodiment of an invention, usu. used to conceptualize the invention and how it will work rather than to create a working model. 3. The doctrine that the interpretation of a statute or regulation made by an administrative agency charged with enforcing it is entitled to judicial deference unless it is arbitrary and capricious.

**OPERATIVE FACT**

operative fact. See FACT.

**OPERATIVE PERFORMANCE BOND**

operative performance bond. See PERFORMANCE BOND.

#### OPERATIVE TRUST

operative trust. See active trust under TRUST.

#### OPERATIVE WORDS

operative words. In a transactional document, the words that actually effect the transaction.

#### OPERIS NOVI NUNTIATIO

operis novi nuntiatio. See NOVI OPERIS NUNTIATIO.

#### OPIC

OPIC. abbr. OVERSEAS PRIVATE INVESTMENT CORPORATION.

#### OPINIO JURIS SIVE NECESSITATIS

opinio juris sive necessitatis (<<schwa>>-pin-ee-oh joor-is sI-vee n<<schwa>>-ses-i-tay-tis). [Latin “opinion that an act is necessary by rule of law”] Int'l law. The principle that for conduct or a practice to become a rule of customary international law, it must be shown that nations believe that international law (rather than moral obligation) mandates the conduct or practice. — Also termed opinio juris.

#### OPINION

opinion. 1. A court's written statement explaining its decision in a given case, usu. including the statement of facts, points of law, rationale, and dicta. — Abbr. op. — Also termed judicial opinion. See DECISION. Cf. JUDGMENT(1); RULING(1). [Cases: Courts 103. C.J.S. Courts §§ 170, 173–174, 176.]

advisory opinion. 1. A nonbinding statement by a court of its interpretation of the law on a matter submitted for that purpose. • Federal courts are constitutionally prohibited from issuing advisory opinions by the case-or-controversy requirement, but other courts, such as the International Court of Justice, render them routinely. See CASE-OR-CONTROVERSY REQUIREMENT. [Cases: Constitutional Law 69. C.J.S. Constitutional Law § 174.] 2. A written statement, issued only by an administrator of an employee benefit plan, that interprets ERISA and applies it to a specific factual situation. • Only the parties named in the request for the opinion can rely on it, and its reliability depends on the accuracy and completeness of all material facts.

concurring opinion. See CONCURRENCE(3).

depublished opinion. An intermediate appellate court's opinion that has been struck from the official reports, esp. by the highest court.

dissenting opinion. An opinion by one or more judges who disagree with the decision reached by the majority. — Often shortened to dissent. — Also termed minority opinion.

extrajudicial opinion. 1. An opinion that is beyond the court's authority to render. • Such

opinions are void. 2. A judge's personal or scholarly opinion expressed in a medium other than a judicial opinion.

majority opinion. An opinion joined in by more than half the judges considering a given case. — Also termed main opinion.

memorandum opinion. A unanimous appellate opinion that succinctly states the decision of the court; an opinion that briefly reports the court's conclusion, usu. without elaboration because the decision follows a well-established legal principle or does not relate to any point of law. — Also termed memorandum decision; memorandum disposition; (slang) memdispo. [Cases: Courts 103, 107. C.J.S. Courts §§ 165, 170, 173–176; Criminal Law § 1665.]

minority opinion. See dissenting opinion.

per curiam opinion (p<<schwa>>r kyoor-ee-<<schwa>>m). An opinion handed down by an appellate court without identifying the individual judge who wrote the opinion. — Sometimes shortened to per curiam. [Cases: Courts 107. C.J.S. Courts §§ 165, 175; Criminal Law § 1665.]

“The most controversial form of summary disposition is a per curiam opinion that simultaneously grants certiorari and disposes of the merits at some length, discussing both the facts and the issues involved. The result is usually a reversal of the judgment below .... The parties are given no opportunity to file briefs on the merits or to argue orally before the Court. Indeed, they are given no formal notice whatever of the Court's intention to dispose of the certiorari papers in this manner ....” Robert L. Stern et al., *Supreme Court Practice* 320 (8th ed. 2002).

plurality opinion. An opinion lacking enough judges' votes to constitute a majority, but receiving more votes than any other opinion. [Cases: Courts 90(2), 102. C.J.S. Courts §§ 138, 141.]

qualified opinion. See QUALIFIED OPINION.

seriatim opinions (seer-ee-ay-tim). A series of opinions written individually by each judge on the bench, as opposed to a single opinion speaking for the court as a whole.

slip opinion. 1. A court opinion that is published individually after being rendered and then collectively in advance sheets before being released for publication in a reporter. • Unlike an unpublished opinion, a slip opinion can usu. be cited as authority. Cf. ADVANCE SHEETS. [Cases: Courts 107. C.J.S. Courts §§ 165, 175; Criminal Law § 1665.] 2. Archaic. A preliminary draft of a court opinion not yet ready for publication. — Also termed slip decision. Cf. unpublished opinion.

unpublished opinion. An opinion that the court has specifically designated as not for publication. • Court rules usu. prohibit citing an unpublished opinion as authority. Such an opinion is considered binding only on the parties to the particular case in which it is issued. Cf. slip opinion. [Cases: Courts 107. C.J.S. Courts §§ 165, 175; Criminal Law § 1665.]

2. A formal expression of judgment or advice based on an expert's special knowledge; esp., a document, usu. prepared at a client's request, containing a lawyer's understanding of the law that

applies to a particular case. — Also termed opinion letter. “The essence of a lawyer's job is to obtain the facts and the law with due diligence and then to give advice. But, strangely, no controlling definition has evolved for what is an ‘opinion.’ The lack of a definition is not crucial for some purposes. On the other hand, a definition is vital in other areas; for example, to determine within a law firm when peer review is necessary ....” 8 Arnold S. Jacobs, *Opinion Letters in Securities Matters* § 3, at Intro-12 (1998).

**adverse opinion.** An outside auditor's opinion that a company's financial statements do not conform with generally accepted accounting principles or do not accurately reflect the company's financial position.

**audit opinion.** A certified public accountant's opinion regarding the audited financial statements of an entity.

**comfort opinion.** Securities. An attorney's written opinion that there is no reason to believe that the registration statement contains any material misrepresentations or omissions that would violate § 11 of the Securities Act of 1933. • The attorney usu. participates in the registration statement's preparation and confers with the securities issuer's representatives, underwriters, and public accountants before writing the opinion. The comfort opinion's purpose is to reassure the parties that the registration statement complies with securities laws; it is not part of the statement and is usu. not included.

**coverage opinion.** A lawyer's opinion on whether a particular event is covered by a given insurance policy.

**infringement opinion.** Patents. A patent attorney's opinion about the probable outcome of an infringement hearing or trial on whether a particular product or process infringes one or more claims of another's patent.

**legal opinion.** A written document in which an attorney provides his or her understanding of the law as applied to assumed facts. • The attorney may be a private attorney or attorney representing the state or other governmental entity. Private attorneys frequently render legal opinions on the ownership of real estate or minerals, insurance coverage, and corporate transactions. A party may be entitled to rely on a legal opinion, depending on factors such as the identity of the parties to whom the opinion was addressed, the nature of the opinion, and the law governing these opinions. See coverage opinion.

**patentability opinion.** Patents. A patent attorney's or patent agent's opinion on the patent office's probable holding about the allowability of a patent application's claims. • The opinion is almost a mini-examination report because it is based on consideration of the invention's subject matter, prior art, etc.

**title opinion.** A lawyer's or title company's opinion on the state of title for a given piece of real property, usu. describing whether the title is clear and marketable or whether it is encumbered. See TITLE SEARCH.

**unqualified opinion.** An audit opinion given by an accountant who is satisfied that the

financial statements reviewed were fairly presented and consistent with the previous year, and that the audit was performed in accordance with generally accepted auditing standards.

validity opinion. Patents. A patent attorney's opinion about the likelihood that a patent or patent claim will be invalidated in light of evidence suggesting obviousness, lack of invention, unenforceability, etc.

3. A person's thought, belief, or inference, esp. a witness's view about facts in dispute, as opposed to personal knowledge of the facts themselves. — Also termed (in sense 3) conclusion. See opinion evidence under EVIDENCE.

fixed opinion. A bias or prejudice that disqualifies a potential juror. [Cases: Jury 99.4. C.J.S. Juries § 399.]

#### OPINION EVIDENCE

opinion evidence. See EVIDENCE.

#### OPINION LETTER

opinion letter. See OPINION(2).

#### OPINION RULE

opinion rule. Evidence. The principle that a witness should testify to facts, not opinions, and that a nonexpert witness's opinions are often excludable from evidence. • Traditionally, this principle is regarded as one of the important exclusionary rules in evidence law. It is based on the idea that a witness who has observed data should provide the most factual evidence possible, leaving the jury to draw inferences and conclusions from the evidence. Under this system, the witness's opinion is unnecessary. Today, opinions are admissible if rationally based on a witness's perceptions and helpful to the fact-finder. [Cases: Criminal Law 448; Evidence 471, 505. C.J.S. Criminal Law § 1050; Evidence §§ 509–512, 518–519, 528–529, 533, 535–537, 542, 556, 558–562, 582, 588–590, 592–593, 596–597, 609; Executions § 435.]

“This rule [the opinion rule] is an historical blunder, for the early cases excluding ‘opinion’ meant a belief by a person who had personally seen and known nothing, and was therefore not qualified to speak; whereas the modern rule applies it to witnesses who have had personal observation as a basis for their inference. Moreover, it is a senseless rule, for not once in a thousand times can the observed data be exactly and fully reproduced in words. Still further, no harm could be done by letting the witness offer his inference, except perhaps the waste of a moment's time, whereas the application of the rule wastes vastly more time. And finally the rule is so pedantically applied by most courts that it excludes the most valuable testimony, such as would be used in all affairs of life outside a court room.” John H. Wigmore, *A Students' Textbook of the Law of Evidence* 156 (1935).

“The [opinion] rule in its stark simplicity might be interpreted as excluding all value judgments, that is to say all statements not being factual propositions susceptible of some sort of empirical proof or disproof. The rule, if it is to be given any purely logical meaning at all, must be

interpreted as excluding at least all inferences drawn from perceived data. Even if value judgments are saved by construing the rule as having application only to factual propositions, the rule would seem to purport to exclude all such propositions in the formulation of which inference by the witness has played some part.” Zelman Cowen, *Essays on the Law of Evidence* 162 (1956).

#### OPINION TESTIMONY

opinion testimony. See TESTIMONY.

#### OPINION WORK PRODUCT

opinion work product. See WORK PRODUCT.

#### OPM

OPM.abbr. OFFICE OF PERSONNEL MANAGEMENT.

#### OPPIGNORATE

oppignorate (<<schwa>>-pig-n<<schwa>>-rayt), vb. Archaic. To pawn or pledge. — Also spelled oppignerate. Cf. PIGNORATE.

#### OPPONENT

opponent. 1. An adverse party in a contested matter. 2. A party that is challenging the admissibility of evidence. • In this sense, the word is an antonym of proponent. 3. Parliamentary law. A member who speaks against a pending motion. Cf. PROPONENT(3).

#### OPPORTUNITY

opportunity. The fact that the alleged doer of an act was present at the time and place of the act.

#### OPPORTUNITY COST

opportunity cost. See COST(1).

#### OPPORTUNITY TO BE HEARD

opportunity to be heard. The chance to appear in a court or other tribunal and present evidence and argument before being deprived of a right by governmental authority. • The opportunity to be heard is a fundamental requirement of procedural due process. It ordinarily includes the right to receive fair notice of the hearing, to secure the assistance of counsel, and to cross-examine adverse witnesses. See procedural due process under DUE PROCESS . [Cases: Constitutional Law 251.6. C.J.S. Constitutional Law §§ 968, 1165–1166, 1168–1169.]

#### OPPOSER

opposer. 1. Intellectual property. One who formally seeks to prevent the grant of a patent or the registration of a trademark. [Cases: Patents 104; Trade Regulation 216. C.J.S. Patents §§ 145–147, 149–151, 173–175; Trade-Marks, Trade-Names, and Unfair Competition §§ 181–182, 184–187.] 2. Hist. APPOSER.



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**OPPOSITION**

opposition. 1.Patents. An action or procedure by which a third party can request a patent application's refusal or an issued patent's annulment. • Most countries allow opposition in some form. 2.Trademarks. A procedure by which a third party can contest an application to place a proposed trademark on the Principal Register before the placement occurs. Cf. CANCELLATION. [Cases: Trade Regulation 216. C.J.S. Trade-Marks, Trade-Names, and Unfair Competition §§ 181–182, 184–187.]

**OPPRESSION**

oppression. 1. The act or an instance of unjustly exercising authority or power. 2. An offense consisting in the abuse of discretionary authority by a public officer who has an improper motive, as a result of which a person is injured. • This offense does not include extortion, which is typically a more serious crime. [Cases: Officers and Public Employees 121. C.J.S. Officers and Public Employees §§ 329–334.] 3.Contracts. Coercion to enter into an illegal contract. • Oppression is grounds for the recovery of money paid or property transferred under an illegal contract. See DURESS; UNCONSCIONABILITY. [Cases: Contracts 138(3), 139. C.J.S. Contracts §§ 280–283, 286, 290, 299.] 4.Corporations. Unfair treatment of minority shareholders (esp. in a close corporation) by the directors or those in control of the corporation. — Also termed (in sense 4) shareholder oppression. See FREEZE-OUT. [Cases: Corporations 182.3, 597. C.J.S. Corporations §§ 344, 826.] — oppress,vb. — oppressive,adj.

**OPPRESSIVE CHILD LABOR**

oppressive child labor.See CHILD LABOR.

**OPPRESSOR**

oppressor. A public official who unlawfully or wrongfully exercises power under color of authority in a way that causes a person harm; one who commits oppression. [Cases: Officers and Public Employees 121. C.J.S. Officers and Public Employees §§ 329–334.]

**OPRA**

OPRA.abbr.OPTIONS PRICE REPORTING AUTHORITY.

**OPTIMA FIDE**

optima fide (op-ti-m<<schwa>> fl-dee). [Latin] Hist. In the best faith.

**OPTIMAL-USE VALUE**

optimal-use value.See VALUE(2).

**OPT IN**

opt in,vb. To choose to participate in (something) <when the choice of settling or not settling came, the Joneses opted in, hoping to avoid a lengthy trial>.

**OPTION**

option,n.1. The right or power to choose; something that may be chosen <the lawyer was running out of options for settlement>.2. An offer that is included in a formal or informal contract; esp., a contractual obligation to keep an offer open for a specified period, so that the offeror cannot revoke the offer during that period <the option is valid because it is supported by consideration>. — Also termed option contract; (redundantly) time option. See irrevocable offer under OFFER. [Cases: Contracts 16; Vendor and Purchaser 18. C.J.S. Contracts §§ 37–41, 44, 46, 55–56, 58; Vendor and Purchaser §§ 98, 115.] 3. The right conveyed by such a contract <Pitts declined to exercise his option to buy the house>.4. The right (but not the obligation) to buy or sell a given quantity of securities, commodities, or other assets at a fixed price within a specified time <trading stock options is a speculative business>. Cf. FUTURES CONTRACT . [Cases: Commodity Futures Trading Regulation 10; Corporations 116; Securities Regulation 5.25(3). C.J.S. Corporations §§ 233–240, 242; Securities Regulation §§ 28–29, 455, 470.]

American option.An option that can be exercised on any day, including its expiration date. — Also termed American-style option. Cf. European option.

call option.An option to buy something (esp. securities) at a fixed price even if the market rises; the right to require another to sell. — Often shortened to call. [Cases: Commodity Futures Trading Regulation 10; Securities Regulation 5.25(3). C.J.S. Securities Regulation §§ 28–29, 455, 470.]

cash-value option.The right of a life-insurance policyholder to surrender the policy for its cash value at a specified time or at any time. [Cases: Insurance 1950, 2037. C.J.S. Insurance §§ 518–519, 742–745, 749–754.]

commodity option.An option to buy or sell a commodity. [Cases: Commodity Futures Trading Regulation 10. C.J.S. Securities Regulation §§ 455, 470.]

European option.An option that can be exercised only on its expiration date. — Also termed European-style option. Cf. American option.

futures option.An option to buy or sell a futures contract. [Cases: Commodity Futures Trading Regulation 10. C.J.S. Securities Regulation §§ 455, 470.]

naked option.A call option that grants another the right to buy stock even though the option-giver does not own the stock to back up that commitment. — Also termed uncovered option.

nonforfeiture option.A policyholder's option, upon the lapse of premium payments, to continue an insurance policy for a shorter period than the original term, to surrender the policy for its cash value, to continue the policy for a reduced amount, or to take some other action rather than forfeit the policy. [Cases: Insurance 2037. C.J.S. Insurance §§ 518–519, 742–745, 749–754.]

option to purchase real property.A contract by which an owner of realty enters an agreement with another allowing the latter to buy the property at a specified price within a specified time, or within a reasonable time in the future, but without imposing an obligation to purchase upon the person to whom it is given. [Cases: Vendor and Purchaser 18. C.J.S. Vendor and Purchaser §§ 98,

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115.]

put option. An option to sell something (esp. securities) at a fixed price even if the market declines; the right to require another to buy. — Often shortened to put. [Cases: Commodity Futures Trading Regulation 10; Corporations 116; Securities Regulation 5.25(3). C.J.S. Corporations §§ 233–240, 242; Securities Regulation §§ 28–29, 455, 470.]

seller's option. A special stock-exchange transaction that gives the seller the right to deliver the security within a specified period, usu. 5 to 60 days.

settlement option. Insurance. A life-insurance-policy clause providing choices in the method of paying benefits to a beneficiary, as by lump-sum payment or periodic installments. [Cases: Insurance 2443, 3402. C.J.S. Insurance § 1194.]

stock option. See STOCK OPTION.

uncovered option. See naked option.

5.Hist. Eccles. law. The requirement that a newly elected bishop convey to the archbishop the right to fill the next vacant ecclesiastical benefice in the new bishop's see.

option, vb. To grant or take an option on (something) <Ward optioned his first screenplay to the studio for \$50,000>.

#### OPTION AGREEMENT

option agreement. Corporations. A share-transfer restriction that commits the shareholder to sell, but not the corporation or other shareholders to buy, the shareholder's shares at a fixed price when a specified event occurs. Cf. BUY–SELL AGREEMENT(2); OPTION(2). [Cases: Corporations 82, 113. C.J.S. Corporations §§ 180–181, 193–195, 220–225.]

#### OPTIONAL BOND

optional bond. See BOND(3).

#### OPTIONAL COMPLETENESS, RULE OF

optional completeness, rule of. See RULE OF OPTIONAL COMPLETENESS.

#### OPTIONAL-COMPLETENESS DOCTRINE

optional-completeness doctrine. See RULE OF OPTIONAL COMPLETENESS.

#### OPTIONAL WRIT

optional writ. See WRIT.

#### OPTION CONTRACT

option contract. See OPTION(2).

#### OPTIONEE

optionee (op-sh<<schwa>>-nee). One who receives an option from another. — Also termed option-holder.

#### OPTIONOR

optionor (op-sh<<schwa>>-n<<schwa>>r or op-sh<<schwa>>-nor). One who grants an option to another. — Also spelled optioner. — Also termed option-giver.

#### OPTION PREMIUM

option premium. See PREMIUM(4).

#### OPTION SPREAD

option spread. Securities. The difference between the option price and the market price of the underlying stock when the option is exercised. See SPREAD.

#### OPTIONS PRICE REPORTING AUTHORITY

Options Price Reporting Authority. A national market-system plan approved by the SEC for collecting and disseminating last-sale and quotation information on options traded on a five-member exchange consisting of the American Stock Exchange, the Chicago Board of Options Exchange, the New York Stock Exchange, the Pacific Stock Exchange, and the Philadelphia Stock Exchange. — Abbr. OPRA.

#### OPTION TENDER BOND

option tender bond. See put bond under BOND(3).

#### OPTION TO PURCHASE REAL PROPERTY

option to purchase real property. See OPTION.

#### OPT OUT

opt out, vb. To choose not to participate in (something) <with so many plaintiffs opting out of the class, the defendant braced itself for multiplicitous lawsuits>. [Cases: Federal Civil Procedure 180; Parties 35.51. C.J.S. Parties § 40.]

#### OPT-OUT CLASS

opt-out class. See CLASS(4).

#### OPT-OUT STATUTE

opt-out statute. Bankruptcy. A state law that limits the exemptions that a debtor who has filed for bankruptcy can claim to those provided by state and local bankruptcy laws, and nonbankruptcy federal law. • The federal bankruptcy code includes an “opt-out” provision that allows states to choose not to adopt the federal exemptions. 11 USCA § 522(b). — Also termed opt-out legislation.

#### OPUS

opus (oh-p<<schwa>>s), n.[Latin "work"] A product of work or labor; esp., an artistic, literary, or musical work or composition. Pl. opuses, opera (ah-p<< schwa>>-r<<schwa>> oroh-p<<schwa>>-r<<schwa>>).

#### OPUS MANUFACTUM

opus manufactum (oh-p<<schwa>>s man-y<<schwa>>-fak-t<<schwa>>m). [Latin] Civil law. An artifact; an artificial work, as distinguished from what is natural. Pl. opera manufacta.

#### OPUS NOVUM

opus novum (oh-p<<schwa>>s noh-v<<schwa>>m). [Latin "new work"] Civil law. A structure newly built on land. Pl. opera nova. See NOVI OPERIS NUNTIATIO.

#### O.R.

O.R.abbr.Own recognizance; on one's own recognizance <the prosecutor agreed not to object to releasing the suspect O.R.>. See RECOGNIZANCE; RELEASE ON RECOGNIZANCE . [Cases: Bail 40. C.J.S. Bail; Release and Detention Pending Proceedings§ 8.]

#### ORACULUM

oraculum (<<schwa>>-rak-y<<schwa>>-l<<schwa>>m), n. [Latin "a solemn declaration"] Roman law. In the later empire, an order or decision by the emperor.

#### ORAL

oral,adj. Spoken or uttered; not expressed in writing. Cf. PAROL.

#### ORAL ARGUMENT

oral argument.An advocate's spoken presentation before a court (esp. an appellate court) supporting or opposing the legal relief at issue. — Also termed (in BrE) hearing. [Cases: Appeal and Error 824; Federal Courts 742.]

"[T]he oral argument is the one chance for you (not for some chance-assigned mere judge) to answer any questions you can stir any member of the court into being bothered about and into bothering with, and the one chance to sew up each such question into a remembered point in favor.... In any but freak situations, oral argument is a must." Karl N. Llewellyn, *The Common Law Tradition: Deciding Appeals* 240 (1960).

#### ORAL CONFESSION

oral confession.See CONFESSION.

#### ORAL CONTRACT

oral contract.See parol contract (1) under CONTRACT.

#### ORAL DEPOSITION

oral deposition.See DEPOSITION.

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**ORAL EVIDENCE**

oral evidence. See testimonial evidence under EVIDENCE.

**ORAL TRUST**

oral trust. See TRUST.

**ORAL WILL**

oral will. See WILL.

**ORANGE BOOK**

Orange Book. Patents. A list of patents on drugs or drug products for which generic-drug applications may be submitted to the Food and Drug Administration. • The expiration dates of the patents are also listed. An applicant may submit a generic-drug application at any time, but the applicant must either accept deferral of FDA approval until the patent expires or contest the patent's validity. The Orange Book's official title is Approved Drug Products with Therapeutic Equivalence Evaluations.

**ORATOR**

orator (or-*<<schwa>>*-t*<<schwa>>*r), n. 1. Roman law. (ital.) An advocate or pleader. 2. Hist. A plaintiff or petitioner in an action in chancery.

**ORATRIX**

oratrix (or-*<<schwa>>*-triks). Hist. A female orator.

**ORBATION**

orbation (or-bay-sh*<<schwa>>*n). Hist. Bereavement or deprivation of one's parents or children.

**ORDEAL**

ordeal. Hist. A primitive form of trial in which an accused person was subjected to a usu. dangerous or painful physical test, the result being considered a divine revelation of the person's guilt or innocence. • The participants believed that God would reveal a person's culpability by protecting an innocent person from some or all consequences of the ordeal. The ordeal was commonly used in Europe until the 13th century, but only sporadically after 1215, when the Fourth Lateran Council forbade the clergy from participating in ordeals. — Also termed trial by ordeal; *judicium Dei* (“judgment of God”); *vulgaris purgatio*. Cf. CANFARA.

“Ordeals involved an appeal to God to reveal the truth in human disputes, and they required priestly participation to achieve this rapport with the Deity. Several forms of ordeal were recognised by the early Christian Church, but in England they usually took the form of fire or water. In the former, a piece of iron was put into a fire and then in the party's hand; the hand was bound, and inspected a few days later: if the burn had festered, God was taken to have decided against the party. The ordeal of cold water required the party to be trussed and lowered into a pond;

if he sank, the water was deemed to have 'received him' with God's blessing, and so he was quickly fished out.... In 1215, the Lateran Council ... took the decisive step of forbidding clergy to participate any more in ordeals. This led in England to the introduction of the criminal trial jury." J.H. Baker, *An Introduction to English Legal History* 5–6 (3d ed. 1990).

bread-and-cheese ordeal. See ordeal of the morsel.

ordeal by fire. An ordeal in which the accused person was forced to hold a piece of hot metal or to walk barefoot across a hot surface, the judgment of guilt or innocence depending on how quickly and cleanly the person's hands or feet healed. • Typically the person's hand was bandaged and, upon the bandage's removal three days later, was examined for festers (indicating guilt). — Also termed fire ordeal; ordeal by hot iron; ordeal of fire.

"Such evidence as we have seems to show that the ordeal of hot iron was so arranged as to give the accused a considerable chance of escape." 2 Frederick Pollock & Frederic William Maitland, *History of English Law Before the Time of Edward I* 599 (2d ed. 1899).

ordeal by hot iron. See ordeal by fire.

ordeal by water. 1. An ordeal in which guilt or innocence depended on whether the accused person floated or sank after being submerged in cold water. • A priest would first consecrate the pool of water, adjuring it to receive the innocent but reject the guilty. An accused who sank was declared innocent; one who floated was adjudged guilty because floating revealed the water's (and therefore God's) rejection of the person. This type of ordeal was used esp. in witchcraft trials. — Also termed ordeal by cold water; cold-water ordeal; ordeal of cold water; (in ecclesiastical law) *aquae frigidae iudicium*. 2. An ordeal in which guilt or innocence was determined by how quickly the accused person's arm healed after being placed in boiling water. • Often the person was forced to retrieve a stone from the bottom of a pot of boiling water. The person's hand and arm were then bandaged and, upon the bandage's removal three days later, were examined for festers (indicating guilt). — Also termed (in sense 2) ordeal by hot water; hot-water ordeal; ordeal of hot water; (in both senses) water ordeal; ordeal of water; (in ecclesiastical law) *aquae ferventis iudicium*; *aenum*.

"The ordeal of water was a very singular institution. Sinking was the sign of innocence, floating the sign of guilt. As any one would sink unless he understood how to float, and intentionally did so, it is difficult to see how any one could ever be convicted by this means. Is it possible that this ordeal may have been an honourable form of suicide, like the Japanese happy despatch? In nearly every case the accused would sink. This would prove his innocence, indeed, but there would be no need to take him out. He would thus die honourably. If by any accident he floated, he would be put to death disgracefully." 1 James Fitzjames Stephen, *A History of the Criminal Law of England* 73 (1883).

ordeal of the morsel. An ordeal in which the person who was to make the proof was given a one-ounce piece of bread or cheese that a priest had solemnly charged to stick in the throat of the guilty. • A person who choked was declared guilty; a person who did not was declared innocent. — Also termed *corsnaed*; *corsned*; trial by *corsnaed*; judicial morsel; morsel of execration.

single ordeal. An ordeal prescribed for someone accused of a less serious crime and involving

less risk or torture than a triple ordeal. • For example, a single ordeal by fire required the accused to pick up a red-hot piece of iron weighing one pound, while a triple ordeal involved a piece of iron weighing three pounds.

triple ordeal. An ordeal prescribed for someone accused of a more serious crime and involving more risk or torture than a single ordeal. • For example, a triple ordeal by water required the accused to submerge an arm into boiling water up to the elbow, while a single ordeal required the arm to be submerged only to the wrist. — Also termed threefold ordeal.

#### ORDELF

ordelf (or-delf). See OREDELFF.

#### ORDELS

ordels (or-deelz). Hist. English law. The right to conduct trials by ordeal within a given jurisdiction.

#### ORDER

order, n. 1. A command, direction, or instruction. See MANDATE(1). 2. A written direction or command delivered by a court or judge. • The word generally embraces final decrees as well as interlocutory directions or commands. — Also termed court order; judicial order. See MANDAMUS. [Cases: Federal Civil Procedure 928; Motions 46. C.J.S. Motions and Orders §§ 1–3, 13, 50, 59.]

“An order is the mandate or determination of the court upon some subsidiary or collateral matter arising in an action, not disposing of the merits, but adjudicating a preliminary point or directing some step in the proceedings.” 1 Henry Campbell Black, *A Treatise on the Law of Judgments* § 1, at 5 (2d ed. 1902).

“While an order may under some circumstances amount to a judgment, they must be distinguished, owing to the different consequences flowing from them, not only in the matter of enforcement and appeal but in other respects, as, for instance, the time within which proceedings to annul them must be taken. Rulings on motions are ordinarily orders rather than judgments. The class of judgments and of decrees formerly called interlocutory is included in the definition given in [modern codes] of the word ‘order.’ ” 1 A.C. Freeman, *A Treatise of the Law of Judgments* § 19, at 28 (Edward W. Tuttle ed., 5th ed. 1925).

administrative order. 1. An order issued by a government agency after an adjudicatory hearing. [Cases: Administrative Law and Procedure 489. C.J.S. Public Administrative Law and Procedure §§ 147–148.] 2. An agency regulation that interprets or applies a statutory provision. [Cases: Administrative Law and Procedure 381. C.J.S. Public Administrative Law and Procedure §§ 87, 91.]

affiliation order. See filiation order.

alternative order. An order commanding the person to whom it is directed either to do a specific thing or to show cause why the court should not order it to be done.



common order. See conditional judgment under JUDGMENT.

decretal order (di-kree-t<<schwa>>l). A court of chancery's interlocutory order that is issued on motion of a party and has the effect of a final decree. See decree nisi under DECREE. [Cases: Equity 428–430.]

docket order. A court order memorialized only as an entry on the docket sheet.

ex parte order (eks pahr-tee). An order made by the court upon the application of one party to an action without notice to the other.

filiation order. Family law. A court's determination of paternity, usu. including a direction to pay child support. • Governments usu. seek filiation orders so that some or all of the public funds spent on the child's welfare can be recovered from a nonmarital child's father. Until the early 20th century, municipalities, not the state, had the legal duty to support the poor, including unwed mothers and their children. In some states, two judges had to determine who an unacknowledged child's father was before the municipality could recover its expenditures. — Also termed affiliation order; order of filiation.

final order. An order that is dispositive of the entire case. See final judgment under JUDGMENT. [Cases: Federal Civil Procedure 928; Motions 51. C.J.S. Motions and Orders §§ 2, 52–53, 55.]

foreign support order. See SUPPORT ORDER.

health-insurance order. See HEALTH-INSURANCE ORDER.

income-withholding order. See INCOME-WITHHOLDING ORDER.

interim order. 1. A temporary court decree that takes effect until something else occurs. [Cases: Federal Civil Procedure 928; Motions 51. C.J.S. Motions and Orders §§ 2, 52–53, 55.] 2. See interlocutory order.

interlocutory order (in-t<<schwa>>r-lok-y<<schwa>>-tor-ee). An order that relates to some intermediate matter in the case; any order other than a final order. • Most interlocutory orders are not appealable until the case is fully resolved. But by rule or statute, most jurisdictions allow some types of interlocutory orders (such as preliminary injunctions and class-certification orders) to be immediately appealed. — Also termed interlocutory decision; interim order; intermediate order. See appealable decision under DECISION; COLLATERAL-ORDER DOCTRINE. [Cases: Appeal and Error 67; Federal Courts 572, 576; Motions 51. C.J.S. Appeal and Error § 84; Motions and Orders §§ 2, 52–53, 55.]

minute order. 1. An order recorded in the minutes of the court rather than directly on a case docket. • Although practice varies, traditionally when a trial judge is sitting officially, with or without a court reporter, a clerk or deputy clerk keeps minutes. When the judge makes an oral order, the only record of that order may be in the minutes. It is therefore referred to as a minute order. — Also termed minute entry. [Cases: Appeal and Error 123; Courts 107. C.J.S. Appeal and Error § 150; Courts §§ 165, 175; Criminal Law § 1665.] 2. A court order not directly relating to

a case, such as an order adopting a local rule of court. • In this sense, the court is not a single judge acting in an adjudicatory capacity, but a chief judge, or a group of two or more judges, acting for a court in an administrative or some other nonadjudicatory capacity. [Cases: Motions 56(1). C.J.S. Motions and Orders §§ 59–60, 62.]

modification order. See MODIFICATION ORDER.

preclusion order. An order barring a litigant from presenting or opposing certain claims or defenses for failing to comply with a discovery order. [Cases: Federal Civil Procedure 1278; Pretrial Procedure 44.1.]

pretrial order. See PRETRIAL ORDER.

protective order. See PROTECTIVE ORDER.

qualified domestic-relations order. See QUALIFIED DOMESTIC-RELATIONS ORDER.

receiving order. A court's direction to a bankruptcy receiver to take some action.

restraining order. See RESTRAINING ORDER.

separation order. A court order granting a married person's request for a legal separation. See SEPARATION AGREEMENT(1).

show-cause order. An order directing a party to appear in court and explain why the party took (or failed to take) some action or why the court should or should not grant some relief. — Also termed order to show cause; rule to show cause; show-cause rule. [Cases: Motions 24. C.J.S. Motions and Orders §§ 20–23.]

standing order. A forward-looking order that applies to all cases pending before a court. • Some individual judges issue a standing order on a subject when there is no local rule bearing on it, often because a rule would not be acceptable to other judges on the court. Standing orders are frequently criticized because they undermine uniformity of procedural rules, esp. at the local level. Cf. standing rule under RULE(3).

supervision order. Family law. A court's order placing a child or young person under the supervision of a child-welfare agency or a probation officer in a case of neglect, abuse, or delinquency.

support order. See SUPPORT ORDER.

temporary order. A court order issued during the pendency of a suit, before the final order or judgment has been entered.

temporary restraining order. See TEMPORARY RESTRAINING ORDER.

turnover order. An order by which the court commands a judgment debtor to surrender certain property to a judgment creditor, or to the sheriff or constable on the creditor's behalf. • Such an order is usu. directed to property that is difficult to acquire by the ordinary judgment-collection process, such as share certificates and accounts receivable. [Cases: Execution 402. C.J.S.

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Executions § 390.]

visitation order. See VISITATION ORDER.

3. Parliamentary law. The principles and practices of parliamentary law; the conduct of business according to those principles and practices; DECORUM. See IN ORDER; OUT OF ORDER. 4. Parliamentary law. An item of business, or an agenda or series of such items <call for the orders of the day>. See AGENDA.

general order. An order of the day other than a special order. See order of the day (1). Cf. special order.

order of business. 1. AGENDA. 2. The sequence in which a meeting considers its business.

“A settled order of business is, however, necessary for the government of the presiding person, and to restrain individual members from calling up favorite measures, or matters under their special patronage, out of their just turn. It is useful also for directing the discretion of the house, when they are moved to take up a particular matter, to the prejudice of others having priority of right to their attention in the general order of business.” Thomas Jefferson, *A Manual of Parliamentary Practice* 30 (1801).

order of the day. 1. An item of business scheduled for consideration at a certain upcoming meeting, at a certain time, or in a certain order. • An order of the day is either a general order or a special order. 2. The daily order of business. See order of business.

special order. An order of the day scheduled for consideration at a certain time, and that outranks and interrupts any other business except another special order scheduled earlier for the same time. See TIME CERTAIN.

5. Parliamentary law. A vote that assigns a duty to an officer, employee, or other agent, customarily in the form, “Ordered, That ....” 6. Parliamentary law. RULE(3). 7. Commercial law. The words in a draft (such as a check) directing one person to pay money to or deliver something to a designated person. • An order should appear to be the demand of a right as opposed to the request for a favor. See order paper under PAPER. [Cases: Bills and Notes 4. C.J.S. Bills and Notes; Letters of Credit § 10.] 8. Securities. A customer's instructions to a broker about how and when to buy or sell securities.

all-or-none order. An order to buy a security to be executed either in its entirety or not at all.

alternative order. An order to buy a security by either of two alternatives (e.g., buy a stock at a limited price or buy on a stop order). — Also termed either-or order.

buy order. An investor's instruction to purchase stock.

day order. An order to buy or sell on one particular day only. Cf. open order.

discretionary order. An order to buy or sell at any price acceptable to the broker.

either-or order. See alternative order.

fill-or-kill order. An order that must be executed as soon as it reaches the trading floor. • If the order is not filled immediately, it is canceled.

limit order. An order to buy or sell at a specified price, regardless of market price. Cf. no-limit order.

market order. An order to buy or sell at the best price immediately available on the market. — Also termed order at the market.

matched order. An order to buy and sell the same security, at about the same time, in about the same quantity, and at about the same price.

no-limit order. An order to buy or sell securities with no limits on price. Cf. limit order.

open order. An order that remains in effect until filled by the broker or canceled by the customer. Cf. day order.

order at the market. See market order.

percentage order. An order to buy or sell a stated amount of a certain stock after a fixed number of shares of the stock have traded.

scale order. An order to buy or sell a security at varying price ranges.

sell order. An investor's instruction to sell stock.

split order. An order directing a broker to sell some stock at one price and some stock at another price.

stop order. An order to buy or sell when the security's price reaches a specified level (the stop price) on the market. • By fixing the price beforehand, the investor is cushioned against stock fluctuations. — Also termed stop-loss order; stop-limit order. [Cases: Brokers 24(1). C.J.S. Brokers §§ 71–72.]

time order. An order that becomes a market or limited-price order at a specified time.

#### ORDER ABSOLUTE

order absolute. See decree absolute under DECREE.

#### ORDER ASSIGNING RESIDUE

order assigning residue. A probate court's order naming the persons entitled to receive parts of an estate and allotting that share to each.

#### ORDER AT THE MARKET

order at the market. See market order under ORDER(8).

#### ORDER BILL OF LADING

order bill of lading. See BILL OF LADING.

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**ORDER DOCUMENT**

order document. See order paper under PAPER.

**ORDERED, ADJUDGED, AND DECREED**

ordered, adjudged, and decreed. The traditional words used to present a court's decision <It is therefore ordered, adjudged, and decreed that ...>.

“The usual style of a decree is ‘it is ordered, adjudged, and decreed’; and of an order or rule, ‘it is ordered,’ etc.” 1 Henry Campbell Black, *A Treatise on the Law of Judgments* § 2, at 6–7 (2d ed. 1902).

**ORDER INSTRUMENT**

order instrument. See order paper under PAPER.

**ORDERLY OFFICER**

orderly officer. See officer of the day under OFFICER(2).

**ORDER NISI**

order nisi. See decree nisi under DECREE.

**ORDER OF BUSINESS**

order of business. See ORDER(4).

**ORDER OF FILIATION**

order of filiation. See filiation order under ORDER(2).

**ORDER OF THE COIF**

Order of the Coif (koyf). 1. Formerly, the order of serjeants-at-law, the highest order of counsel at the English Bar. • The last serjeant was appointed to the Order in 1875. 2. An honorary legal organization whose members are selected on the basis of their law-school grades. See COIF.

**ORDER OF THE DAY**

order of the day. See ORDER(4).

**ORDER PAPER**

order paper. See PAPER.

**ORDER TO SHOW CAUSE**

order to show cause. See show-cause order under ORDER(2).

**ORDINANCE**

ordinance (or-d<<schwa>>-n<<schwa>>nts). An authoritative law or decree; esp., a municipal regulation. • Municipal governments can pass ordinances on matters that the state

government allows to be regulated at the local level. — Also termed bylaw; municipal ordinance. [Cases: Municipal Corporations 105. C.J.S. Municipal Corporations §§ 247–251.]

“An ordinance ... may be purely administrative in nature, establishing offices, prescribing duties, or setting salaries; it may have to do with the routine or procedure of the governing body. Or it may be a governmental exercise of the power to control the conduct of the public — establishing rules which must be complied with, or prohibiting certain actions or conduct. In any event it is the determination of the sovereign power of the state as delegated to the municipality. It is a legislative enactment, within its sphere, as much as an act of the state legislature.” 1 Judith O’Gallagher, *Municipal Ordinances* § 1A.01, at 3 (2d ed. 1998).

#### ORDINANDI LEX

ordinandi lex (or-d<<schwa>>-nan-dlleks). [Latin] The law of procedure, as distinguished from substantive law.

#### ORDINARILY PRUDENT PERSON

ordinarily prudent person. See REASONABLE PERSON.

#### ORDINARY

ordinary, adj. 1. Occurring in the regular course of events; normal; usual. 2. (Of a judge) having jurisdiction by right of office rather than by delegation. 3. (Of jurisdiction) original or immediate, as opposed to delegated.

ordinary, n. 1. Eccles. law. A high-ranking official who has immediate jurisdiction over a specified territory, such as an archbishop over a province or a bishop over a diocese. 2. Civil law. A judge having jurisdiction by right of office rather than by delegation. 3. A probate judge. • The term is used in this sense only in some U.S. states.

#### ORDINARY AMBASSADOR

ordinary ambassador. See resident ambassador under AMBASSADOR.

#### ORDINARY AND NECESSARY BUSINESS EXPENSE

ordinary and necessary business expense. See ordinary and necessary expense under EXPENSE.

#### ORDINARY AND NECESSARY EXPENSE

ordinary and necessary expense. See EXPENSE.

#### ORDINARY ANNUITY

ordinary annuity. See ANNUITY.

#### ORDINARY ASSEMBLY

ordinary assembly. See ASSEMBLY.

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**ORDINARY CARE**

ordinary care. See reasonable care under CARE.

**ORDINARY COMMITTEE**

ordinary committee. See COMMITTEE.

**ORDINARY COURSE OF BUSINESS**

ordinary course of business. See COURSE OF BUSINESS.

**ORDINARY DILIGENCE**

ordinary diligence. See DILIGENCE.

**ORDINARY GAIN**

ordinary gain. See GAIN(3).

**ORDINARY GOODS**

ordinary goods. See GOODS.

**ORDINARY HIGH TIDE**

ordinary high tide. See mean high tide under TIDE.

**ORDINARY INCOME**

ordinary income. See INCOME.

**ORDINARY INSURANCE**

ordinary insurance. See ordinary life insurance under LIFE INSURANCE.

**ORDINARY LAW**

ordinary law. See STATUTORY LAW.

**ORDINARY LIFE INSURANCE**

ordinary life insurance. See whole life insurance under LIFE INSURANCE.

**ORDINARY LOSS**

ordinary loss. See LOSS.

**ORDINARY MAIN MOTION**

ordinary main motion. See original main motion under MOTION(2).

**ORDINARY MAJORITY**

ordinary majority. See simple majority under MAJORITY.

**ORDINARY MEANING**

ordinary meaning. See plain meaning under MEANING.

#### ORDINARY-MEANING RULE

ordinary-meaning rule. 1. The rule that when a word is not defined in a statute or other legal instrument, the court normally construes it in accordance with its ordinary or natural meaning.

2. PLAIN-MEANING RULE.

#### ORDINARY NEGLIGENCE

ordinary negligence. See NEGLIGENCE.

#### ORDINARY-OBSERVER TEST

ordinary-observer test. See AUDIENCE TEST.

#### ORDINARY'S COURT

ordinary's court. See probate court under COURT.

#### ORDINARY SEAMAN

ordinary seaman. See SEAMAN.

#### ORDINARY SHARES

ordinary shares. See common stock under STOCK.

#### ORDINARY SKILL

ordinary skill. 1. SKILL. 2. ORDINARY SKILL IN THE ART.

#### ORDINARY SKILL IN THE ART

ordinary skill in the art. Patents. The level of technical knowledge, experience, and expertise possessed by a typical engineer, scientist, designer, etc. in a technology that is relevant to an invention. [Cases: Patents 16(3).]

#### ORDINARY STANDING RULE

ordinary standing rule. See standing rule (1) under RULE(3).

#### ORDINARY WORK PRODUCT

ordinary work product. See fact work product under WORK PRODUCT.

#### ORDINATIO FORESTAE

ordinatio forestae (or-di-nay-shee-oh for-es-tee), n. See ASSISA DE FORESTA.

#### ORDINATUM EST

ordinatum est (or-d<<schwa>>-nay-t<<schwa>>m est). [Law Latin] Hist. It is ordered. • These were the usual first words of a court order entered in Latin.



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**ORDINIS BENEFICIUM**

ordinis beneficium (or-d<<schwa>>-nis ben-<<schwa>>-fish-ee-<<schwa>>m). [Latin “the benefit of order”] Civil law. The privilege of a surety by which the creditor must exhaust the principal debtor's property before having recourse against the surety. See DISCUSSION.

**ORDO ATTACHIAMENTORUM**

ordo attachiamentorum (or-doh <<schwa>>-tach-ee-<<schwa>>-men-tor-<<schwa>>m). [Law Latin] Hist. The order of attachments.

**ORDO JUDICIORUM**

ordo judiciorum (or-doh joo-dish-ee-or-<<schwa>>m). [Latin] Eccles. law. The order of judgments; the rule by which the course of hearing each case was prescribed.

**ORDONNANCE**

ordonnance (or-d<<schwa>>-n<<schwa>>nts or or-doh-nahns). [French] 1. A law, decree, or ordinance. 2. A compilation of a body of law on a particular subject, esp. prizes and captures at sea.

**OREDELF**

oredelf (or-delf).Hist. The right to dig for mineral ore on one's own land. — Also spelled oredelfe; ordelf.

**ORE TENUS**

ore tenus (or-ee tee-n<<schwa>>s orten-<<schwa>>s), adv. & adj.[Latin “by word of mouth”] 1. Orally; by word of mouth; VIVA VOCE <pleading carried on ore tenus>.

“Pleadings are the mutual altercations between the plaintiff and defendant; which at present are set down and delivered into the proper office in writing, though formerly they were usually put in by their counsel ore tenus, or viva voce, in court, and then minuted down by the chief clerks, or prothonotaries; whence in our old law French the pleadings are frequently denominated the parol.” 3 William Blackstone, Commentaries on the Laws of England 293 (1768).

2. Made or presented orally <ore tenus evidence>.

**ORE TENUS RULE**

ore tenus rule.The presumption that a trial court's findings of fact are correct and should not be disturbed unless clearly wrong or unjust. [Cases: Appeal and Error 931(1).]

**ORFGILD**

orfild.Hist.1. Restitution given by the hundred or county to a person whose property was stolen. — Also termed cheapgild. 2. A payment in or restoration of cattle.

**ORGANIC ACT**

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organic act. See organic statute under STATUTE.

**ORGANIC DISEASE**

organic disease. See DISEASE.

**ORGANIC LAW**

organic law. 1. The body of laws (as in a constitution) that define and establish a government; FUNDAMENTAL LAW. 2. Civil law. Decisional law; CASELAW.

**ORGANIC STATUTE**

organic statute. See STATUTE.

**ORGANIZATION**

organization. 1. A body of persons (such as a union or corporation) formed for a common purpose. — Also termed society. 2. UNION.

**ORGANIZATIONAL CRIME**

organizational crime. See corporate crime under CRIME.

**ORGANIZATIONAL EXPENSE**

organizational expense. See EXPENSE.

**ORGANIZATIONAL MEETING**

organizational meeting. See MEETING.

**ORGANIZATIONAL PICKETING**

organizational picketing. See PICKETING.

**ORGANIZATIONAL STRIKE**

organizational strike. See recognition strike under STRIKE.

**ORGANIZED CRIME**

organized crime. 1. Widespread criminal activities that are coordinated and controlled through a central syndicate. See RACKETEERING. 2. Persons involved in these criminal activities; a syndicate of criminals who rely on their unlawful activities for income. See SYNDICATE.

**ORGANIZED LABOR**

organized labor. 1. Workers who are affiliated by membership in a union. 2. A union, or unions collectively, considered as a political force. [Cases: Labor Relations 81. C.J.S. Labor Relations §§ 43–45.]

**ORIGINAL ACQUISITION**

original acquisition. See ACQUISITION.

#### ORIGINAL ADMINISTRATION

original administration. See ADMINISTRATION.

#### ORIGINAL BILL

original bill. See BILL(2).

#### ORIGINAL CONTRACTOR

original contractor. See general contractor under CONTRACTOR.

#### ORIGINAL CONVEYANCE

original conveyance. See primary conveyance under CONVEYANCE.

#### ORIGINAL COST

original cost. See acquisition cost (1) under COST(1).

#### ORIGINAL-DOCUMENT RULE

original-document rule. See BEST-EVIDENCE RULE.

#### ORIGINAL DOMICILE

original domicile. See domicile of origin under DOMICILE.

#### ORIGINAL DRAWING

original drawing. See DRAWING.

#### ORIGINAL ESTATE

original estate. See ESTATE(1).

#### ORIGINAL EVIDENCE

original evidence. See EVIDENCE.

#### ORIGINALIA

originalia (<<schwa>>-rij-<<schwa>>-nay-lee-<<schwa>> or -nayl-y<<schwa>>). Hist. Records compiled in the Chancery and transmitted to the Remembrancer's office in the Exchequer.

• These records were kept from 1236 to 1837. Cf. RECORDA.

#### ORIGINAL INTENT

original intent. See INTENT(2).

#### ORIGINALISM

originalism. Constitutional law. The theory that the U.S. Constitution should be interpreted according to the intent of those who drafted and adopted it. Cf. INTERPRETIVISM;

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**NONINTERPRETIVISM.****ORIGINAL ISSUE**

original issue. See **ISSUE(2)**.

**ORIGINAL-ISSUE DISCOUNT**

original-issue discount. The difference between a bond's face value and the price at which it is initially sold. — Abbr. **OID**.

**ORIGINALITY**

originality. Copyright. 1. The quality or state of being the product of independent creation and having a minimum degree of creativity. • Originality is a requirement for copyright protection. But this is a lesser standard than that of novelty in patent law: to be original, a work does not have to be novel or unique. Cf. **NOVELTY**. [Cases: Copyrights and Intellectual Property 12(1).] 2. The degree to which a product claimed for copyright is the result of an author's independent efforts. Cf. **CREATIVITY**.

“ ‘Original’ in reference to a copyrighted work means that the particular work ‘owes its origin’ to the ‘author.’ No large measure of novelty is necessary.” *Alfred Bell & Co. v. Catalda Fine Arts, Inc.*, 191 F.2d 99, 102 (2d Cir. 1951)(Frank, J.).

**ORIGINAL JURISDICTION**

original jurisdiction. See **JURISDICTION**.

**ORIGINAL MAIN MOTION**

original main motion. See **MOTION(2)**.

**ORIGINAL MARKET**

original market. See primary market under **MARKET**.

**ORIGINAL-PACKAGE DOCTRINE**

original-package doctrine. Constitutional law. The principle that imported goods are exempt from state taxation as long as they are unsold and remain in the original packaging. • The Supreme Court abolished this doctrine in 1976, holding that states can tax imported goods if the tax is nondiscriminatory. See **IMPORT-EXPORT CLAUSE**. [Cases: Commerce 77.10(3). C.J.S. Commerce § 31.]

**ORIGINAL PRECEDENT**

original precedent. See **PRECEDENT**.

**ORIGINAL PROCESS**

original process. See **PROCESS**.

**ORIGINAL PROMISE**

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original promise.See PROMISE.

#### ORIGINAL RECEIVER

original receiver.See principal receiver under RECEIVER.

#### ORIGINAL SOURCE

original source.The person or persons who first disclosed fraud to the government, derived from direct and indirect information on which a qui tam complaint is based under the False Claims Act or a similar state law.

#### ORIGINAL TITLE

original title.See TITLE(2).

#### ORIGINAL WRIT

original writ.See WRIT.

#### ORIGINAL-WRITING RULE

original-writing rule.See BEST-EVIDENCE RULE.

#### ORINATION CLAUSE

origination clause.(often cap.) 1. The provision in the U.S. Constitution that all bills for increasing taxes and raising revenue must originate in the House of Representatives, not the Senate (U.S. Const. art. I, § 7, cl. 1). • The Senate may, however, amend revenue bills. 2. A provision in a state constitution requiring that revenue bills originate in the lower house of the state legislature. [Cases: Statutes 6. C.J.S. Statutes §§ 12–13.]

#### ORINATION FEE

origination fee.See FEE(1).

#### ORIGINATOR

originator. The entity that initiates a funds transfer subject to UCC article 4A. UCC § 4A-104(c). [Cases: Banks and Banking 188.5. C.J.S. Banks and Banking §§ 445–451.]

#### “OR” LEASE

“or” lease.See LEASE.

#### ORNEST

ornest.Hist. See TRIAL BY COMBAT.

#### ORP

ORP.abbr.Ordinary, reasonable, and prudent — the standard on which negligence cases are based.

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**ORPHAN**

orphan, n. 1. A child whose parents are dead. [Cases: Infants 2.C.J.S. Infants §§ 12, 108, 198.]  
2. A child with one dead parent and one living parent. — More properly termed half orphan. 3. A child who has been deprived of parental care and has not been legally adopted; a child without a parent or guardian. [Cases: Infants 157.]

**ORPHAN DRUG**

orphan drug. See DRUG.

**ORPHAN'S BUSINESS**

orphan's business. Hist. A probate court's jurisdiction over the allotment of distributive shares of an estate to the decedent's family, esp. the children.

**ORPHAN'S COURT**

orphan's court. See probate court under COURT.

**OS**

OS. See ordinary seaman under SEAMAN.

**O.S.**

o.s. abbr. OLD STYLE.

**OSC**

OSC. abbr. OFFICE OF SPECIAL COUNSEL.

**OSHA**

OSHA (oh-sh<<schwa>>). abbr. 1. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970.  
2. OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION.

**OSHRC**

OSHRC. abbr. OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

**OSM**

OSM. abbr. OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT.

**O . S I. IP**

o.si.ip. abbr. OBIIT SINE PROLE.

**OSTENDIT VOBIS**

ostendit vobis (os-ten-dit voh-bis). [Latin] Hist. Shows to you. • In old pleading, these words were used by a demandant to begin a count.

**OSTENSIBLE**

ostensible (ah-sten-s<<schwa>>-b<<schwa>>l), adj. Open to view; declared or professed; apparent.

**OSTENSIBLE AGENCY**

ostensible agency. See agency by estoppel under AGENCY(1).

**OSTENSIBLE AGENT**

ostensible agent. See apparent agent under AGENT(2).

**OSTENSIBLE AUTHORITY**

ostensible authority. See apparent authority under AUTHORITY(1).

**OSTENSIBLE PARTNER**

ostensible partner. See nominal partner under PARTNER.

**OSTP**

OSTP. See OFFICE OF SCIENCE AND TECHNOLOGY POLICY.

**OSTRICH DEFENSE**

ostrich defense. See DEFENSE(1).

**OSTRICH INSTRUCTION**

ostrich instruction. See JURY INSTRUCTION.

**OTA**

OTA. abbr. OFFICE OF TECHNOLOGY ASSESSMENT.

**OTC**

OTC. abbr. OVER-THE-COUNTER.

**OTC MARKET**

OTC market. abbr. OVER-THE-COUNTER MARKET.

**OTHER CONSIDERATION**

other consideration. See CONSIDERATION(1).

**OTHER INCOME**

other income. See INCOME.

**OTHER-INSURANCE CLAUSE**

other-insurance clause. An insurance-policy provision that attempts to limit coverage if the insured has other coverage for the same loss. • The three major other-insurance clauses are the pro rata clause, the excess clause, and the escape clause. See ESCAPE CLAUSE; EXCESS CLAUSE;

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PRO RATA CLAUSE. [Cases: Insurance 2111.]

#### OTHER-PROPERTY RULE

other-property rule. The principle that tort recovery is unavailable if the only damage caused by a product defect is to the product itself. See *East River S.S. Corp. v. Transamerica Delaval, Inc.*, 476 U.S. 858, 106 S.Ct. 2295 (1986).

#### OTP

OTP.abbr. Office of Technology Policy. See TECHNOLOGY ADMINISTRATION.

#### OTS

OTS.abbr. OFFICE OF THRIFT SUPERVISION.

#### OTSA

OTSA.abbr. OFFICE OF TAX-SHELTER ANALYSIS.

#### OUI

OUI.abbr. Operating under the influence. See DRIVING UNDER THE INFLUENCE. [Cases: Automobiles 332. C.J.S. Motor Vehicles §§ 1382–1394.]

#### OUR FEDERALISM

our federalism.(often cap.) The doctrine holding that a federal court must refrain from hearing a constitutional challenge to state action if federal adjudication would be considered an improper intrusion into the state's right to enforce its own laws in its own courts. Cf. ABSTENTION; FEDERALISM. [Cases: Federal Courts 43, 46.]

#### OUST

oust,vb. To put out of possession; to deprive of a right or inheritance.

#### OUSTER

ouster. 1. The wrongful dispossession or exclusion of someone (esp. a cotenant) from property (esp. real property); DISPOSSESSION. [Cases: Property 10; Tenancy in Common 14, 15. C.J.S. Property §§ 27–31, 33; Tenancy in Common §§ 25–35, 38, 41.] 2. The removal of a public or corporate officer from office. Cf. EJECTION. [Cases: Officers and Public Employees 74. C.J.S. Officers and Public Employees §§ 208–211.]

#### OUSTER LE MAIN

ouster le main (ow-st<<schwa>>r l<<schwa>> mayn). [Law French “remove the hand”] Hist. 1. A delivery of land out of the monarch's hands because the monarch has no right or title to hold it. 2. A judgment or writ granting such a delivery. 3. A delivery of land from a guardian to a ward once the ward attains legal age. — Also written ouster-le-main.

#### OUTBUILDING



outbuilding. A detached building (such as a shed or garage) within the grounds of a main building.

#### OUTCOME-DETERMINATIVE TEST

outcome-determinative test.Civil procedure. A test used to determine whether an issue is substantive for purposes of the Erie doctrine by examining the issue's potential effect on the outcome of the litigation. See ERIE DOCTRINE . [Cases: Federal Courts 373.]

#### OUTCOME RESPONSIBILITY

outcome responsibility.The view that those who cause harm are responsible for it even in the absence of fault. Cf. strict liability under LIABILITY.

“Outcome responsibility serves to foster a sense of identity because it does not stretch indefinitely into the future but enables each of us to claim for ourselves, or to share with a few others, outcomes of limited extent, whether successes or failures. Yet outcome responsibility for harm to another does not by itself create a duty to compensate. The form that our responsibility for an outcome should take remains an open question. An apology or telephone call will often be enough. But outcome responsibility is a basis on which the law can erect a duty to compensate if there is reason to do so. There will be some reason to do so if the conduct in question is socially undesirable and if there is also reason to treat the harm suffered as the infringement of a right.” Tony Honoré, *Responsibility and Fault* 77–78 (1999).

#### OUTER BAR

outer bar.English law. A group of junior barristers who sit outside the dividing bar in the court. • These barristers rank below the King's Counsel or Queen's Counsel. — Also termed utter bar. Cf. INNER BAR.

#### OUTER BARRISTER

outer barrister.See BARRISTER.

#### OUTER HOUSE

Outer House.Scots law. The first-instance jurisdiction of the Court of Session. See COURT OF SESSION(1).

#### OUTER SPACE

outer space. 1. The known and unknown areas of the universe beyond airspace. • The boundary between airspace and outer space is not fixed or precise. Cf. AIRSPACE. 2.Int'l law. The space surrounding the planet that by United Nations treaty is not subject to claim of appropriation by any national sovereignty. • The treaty does not expressly define outer space. See OUTER SPACE TREATY .

#### OUTER SPACE TREATY

Outer Space Treaty.Int'l law. The short title of the United Nations Treaty on Principles

Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies, 18 U.S.T. pt. 3, at 2410 (Jan. 27, 1967). • This treaty stipulates that, because space exploration is in the interest of all humanity, no nation may claim territory, establish military bases, or station weapons on any other planet or a moon. The treaty also declares that international law and the United Nations charter apply in space. See OUTER SPACE.

#### OUTFANGTHIEF

outfangthief (owt-fang-theef). [fr. Old English ut “out” + fangen “taken” + theof “thief”] Hist. The right of a lord of a manor to pursue a thief outside the manor's jurisdiction and to bring the thief back for trial and punishment; a lord's right to punish all thefts committed within his territories, wherever the thief might be caught. — Also spelled outfangthef; utfangthief; utfangthef. Cf. INFANGTHIEF.

#### OUTLAW

outlaw,n.1. A person who has been deprived of the benefit and protection of the law; a person under a sentence of outlawry. 2. A lawless person or habitual criminal; esp., a fugitive from the law. 3.Int'l law. A person, organization, or nation under a ban or restriction because it is considered to be in violation of international law or custom.

outlaw,vb.1. To deprive (someone) of the benefit and protection of the law; to declare an outlaw <outlaw the fugitive>.2. To make illegal <outlaw fireworks within city limits>.3. To remove from legal jurisdiction or enforcement; to deprive of legal force <outlaw a claim under the statute>.

#### OUTLAWRY

outlawry. 1.Hist. The act or process of depriving someone of the benefit and protection of the law. 2. The state or condition of being outlawed; the status of an outlaw. 3. Disregard or disobedience of the law. See SACER; CONSECRATIO CAPITIS.

#### OUTLAW STRIKE

outlaw strike.See wildcat strike under STRIKE.

#### OUTLINE FORM

outline form.Patents. A style of writing patent claims that uses a numbered or lettered subparagraph for each element. Cf. COLON-SEMICOLON FORM; SINGLE-PARAGRAPH FORM M; SUBPARAGRAPH FORM.

#### OUT-OF-COURT

out-of-court,adj. Not done or made as part of a judicial proceeding <an out-of-court settlement> <an out-of-court statement that was not under oath>. See EXTRAJUDICIAL.

#### OUT-OF-COURT SETTLEMENT

out-of-court settlement.See SETTLEMENT(2).

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**OUT-OF-HOME PLACEMENT**

out-of-home placement. Family law. The placing of a child in a living arrangement outside the child's home (as in foster care or institutional care), usu. as the result of abuse or neglect; specif., in a child-abuse or child-neglect case, state action that removes a child from a parent's or custodian's home and places the child in foster care or with a relative, either temporarily or for an extended period. Cf. FOSTER-CARE PLACEMENT.

**OUT-OF-HOSPITAL DO-NOT-RESUSCITATE ORDER**

out-of-hospital do-not-resuscitate order. See DO-NOT-RESUSCITATE ORDER.

**OUT OF ORDER**

out of order. 1. (Of a motion) not in order <the motion is out of order because it conflicts with the bylaws>. See IN ORDER. • A motion may be “out of order” because it is inherently inappropriate for the deliberative assembly's consideration at any time (e.g., because it proposes an unlawful action). A motion that is not appropriate simply because it is brought before the meeting at the wrong time but that may be appropriate for consideration at another time is more precisely referred to as “not in order.”

“Motions that conflict with the corporate charter, constitution or bylaws of a society, or with procedural rules prescribed by national, state, or local laws, are out of order, and if any motion of this kind is adopted, it is null and void. Likewise, motions are out of order if they conflict with a motion that has been adopted by the society and has been neither rescinded, nor reconsidered and rejected after adoption. Such conflicting motions, if adopted, are null and void unless adopted by the vote required to rescind or amend the motion previously adopted.” Henry M. Robert, Robert's Rules of Order Newly Revised § 39, at 332 (10th ed. 2000).

2. (Of a person) guilty of a breach of decorum or other misconduct during a meeting <the member is out of order>.

**OUT-OF-POCKET EXPENSE**

out-of-pocket expense. See EXPENSE.

**OUT-OF-POCKET LOSS**

out-of-pocket loss. See LOSS.

**OUT-OF-POCKET RULE**

out-of-pocket rule. The principle that a defrauded buyer may recover from the seller as damages the difference between the amount paid for the property and the actual value received. Cf. BENEFIT-OF-THE-BARGAIN RULE(2). [Cases: Fraud 59(3).]

**OUT OF THE MONEY**

out of the money, adj. (Of a creditor) unpaid because a debtor has insufficient assets to pay the claim.

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**OUT OF THE STATE**

out of the state.See **BEYOND SEAS**(2).

**OUT OF TIME**

out of time.After a deadline; too late <because the statute of limitations expired before the action's filing, this lawsuit is out of time and should be dismissed>.

**OUTPUT**

output,n.1. A business's production of goods or materials; the quantity or amount produced. 2. The process or fact of producing goods or materials.

**OUTPUT CONTRACT**

output contract.See **CONTRACT**.

**OUTRAGE**

outrage,n. See **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**.

**OUTRAGEOUS CONDUCT**

outrageous conduct.See **CONDUCT**.

**OUTSIDE DIRECTOR**

outside director.See **DIRECTOR**.

**OUTSIDE FINANCING**

outside financing.See **FINANCING**.

**OUTSIDE PARTY**

outside party.See **THIRD PARTY**.

**OUTSOURCING AGREEMENT**

outsourcing agreement.An agreement between a business and a service provider in which the service provider promises to provide necessary services, esp. data processing and information management, using its own staff and equipment, and usu. at its own facilities.

**OUTSTANDING**

outstanding,adj.1. Unpaid; uncollected <outstanding debts>.2. Publicly issued and sold <outstanding shares>.

**OUTSTANDING CAPITAL STOCK**

outstanding capital stock.See outstanding stock under **STOCK**.

**OUTSTANDING SECURITY**

outstanding security. See SECURITY.

#### OUTSTANDING STOCK

outstanding stock. See STOCK.

#### OUTSTANDING WARRANT

outstanding warrant. See WARRANT(1).

#### OVER

over, adj. (Of a property interest) intended to take effect after the failure or termination of a prior estate; preceded by some other possessory interest <a limitation over> <a gift over>.

#### OVERAGE

overage, n. 1. An excess or surplus, esp. of goods or merchandise. 2. A percentage of retail sales paid to a store's landlord in addition to fixed rent. [Cases: Landlord and Tenant 200.3. C.J.S. Landlord and Tenant § 502(2).]

#### OVERBREADTH DOCTRINE

overbreadth doctrine. Constitutional law. The doctrine holding that if a statute is so broadly written that it deters free expression, then it can be struck down on its face because of its chilling effect — even if it also prohibits acts that may legitimately be forbidden. • The Supreme Court has used this doctrine to invalidate a number of laws, including those that would disallow peaceful picketing or require loyalty oaths. Cf. VAGUENESS DOCTRINE. [Cases: Constitutional Law 90(3). C.J.S. Constitutional Law §§ 502, 542, 546–550.]

#### OVERDRAFT

overdraft. 1. A withdrawal of money from a bank in excess of the balance on deposit. [Cases: Banks and Banking 150. C.J.S. Banks and Banking §§ 349–352, 358.] 2. The amount of money so withdrawn. — Abbr. OD; o/d. 3. A line of credit extended by a bank to a customer (esp. an established or institutional customer) who might overdraw on an account.

#### OVERDRAW

overdraw, vb. To draw on (an account) in excess of the balance on deposit; to make an overdraft.

#### OVERHEAD

overhead, n. Business expenses (such as rent, utilities, or support-staff salaries) that cannot be allocated to a particular product or service; fixed or ordinary operating costs. — Also termed administrative expense; office expense. [Cases: Damages 42, 45. C.J.S. Damages §§ 62–65.]

#### OVERHEATED ECONOMY

overheated economy. See ECONOMY.

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**OVERINCLUSIVE**

overinclusive,adj. (Of legislation) extending beyond the class of persons intended to be protected or regulated; burdening more persons than necessary to cure the problem <an overinclusive classification>.

**OVERINSURANCE**

overinsurance. 1. Insurance (esp. from the purchase of multiple policies) that exceeds the value of the thing insured. 2. Excessive or needlessly duplicative insurance. [Cases: Insurance 3023, 3043. C.J.S. Insurance §§ 6, 572, 624–625, 679–682, 718.]

**OVERISSUE**

overissue,n. An issue of securities beyond the authorized amount of capital or credit. [Cases: Corporations 102. C.J.S. Corporations § 142.]

**OVERLAPPING JURISDICTION**

overlapping jurisdiction.See concurrent jurisdiction under JURISDICTION.

**OVERPLUS**

overplus. See SURPLUS.

**OVERREACHING**

overreaching,n.1. The act or an instance of taking unfair commercial advantage of another, esp. by fraudulent means. [Cases: Contracts 1; Sales 1(1). C.J.S. Contracts §§ 2–3, 9, 12; Sales §§ 2, 9, 29, 48.] 2. The act or an instance of defeating one's own purpose by going too far. — overreach,vb.

**OVERRIDDEN VETO**

overridden veto.See VETO.

**OVERRIDE**

override (oh-v<<schwa>>r-Id), n.1. A commission paid to a manager on a sale made by a subordinate. 2. A commission paid to a real-estate broker who listed a property when, within a reasonable amount of time after the expiration of the listing, the owner sells that property directly to a buyer with whom the broker had negotiated during the term of the listing. [Cases: Brokers 56(3). C.J.S. Brokers §§ 172, 174.] 3.ROYALTY(2).

override (oh-v<<schwa>>r-Id), vb. To prevail over; to nullify or set aside < Congress mustered enough votes to override the President's veto>.

**OVERRIDING ROYALTY**

overriding royalty.See ROYALTY(2).

**OVERRULE**

overrule,vb.1. To rule against; to reject <the judge overruled all of the defendant's objections>.2. (Of a court) to overturn or set aside (a precedent) by expressly deciding that it should no longer be controlling law <in *Brown v. Board of Education*, the Supreme Court overruled *Plessy v. Ferguson*>. Cf. VACATE(1). [Cases: Courts 100(1). C.J.S. Courts §§ 147–148.]

“If a decision is not a recent one, and especially if it seems to be very poor, it should not be relied upon without ascertaining whether it may not have been expressly or impliedly overruled by some subsequent one; that is, whether the court may not have laid down a contrary principle in a later case.” Frank Hall Childs, *Where and How to Find the Law* 94 (1922).

“Overruling is an act of superior jurisdiction. A precedent overruled is definitely and formally deprived of all authority. It becomes null and void, like a repealed statute, and a new principle is authoritatively substituted for the old.” John Salmond, *Jurisprudence* 189 (Glanville L. Williams ed., 10th ed. 1947).

#### OVERSEAS BILL OF LADING

overseas bill of lading.See BILL OF LADING.

#### OVERSEAS PRIVATE INVESTMENT CORPORATION

Overseas Private Investment Corporation.A federally chartered corporation that promotes private investment in developing countries by making or guaranteeing loans; supporting private funds that invest in foreign nations; insuring investments against political risks; and engaging in outreach activities. • It was established as an independent agency by the Foreign Affairs Reform and Restructuring Act of 1998. The agency is self-sustaining. — Abbr. OPIC. [Cases: United States 53(6.1). C.J.S. United States §§ 83–89, 94–95.]

#### OVERSMAN

oversman. See UMPIRE.

#### OVERSUBSCRIPTION

oversubscription. A situation in which there are more subscribers to a new issue of securities than there are securities available for purchase. [Cases: Corporations 86.]

#### OVERT

overt,adj. Open and observable; not concealed or secret <the conspirators' overt acts>.

#### OVERT ACT

overt act.Criminal law. 1. An act that indicates an intent to kill or seriously harm another person and thus gives that person a justification to use self-defense. [Cases: Assault and Battery 5, 51; Homicide 767. C.J.S. Assault and Battery §§ 8, 64–65, 70.] 2. An outward act, however innocent in itself, done in furtherance of a conspiracy, treason, or criminal attempt. • An overt act is usu. a required element of these crimes. [Cases: Conspiracy 27; Criminal Law 44. C.J.S. Conspiracy §§ 96, 108, 123–126; Criminal Law §§ 114–123.] 3. See ACTUS REUS. — Also

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termed positive act.

#### OVER-THE-COUNTER

over-the-counter,adj.1. Not listed or traded on an organized securities exchange; traded between brokers and dealers who negotiate directly <over-the-counter stocks>. [Cases: Securities Regulation 35.13. C.J.S. Securities Regulation § 104.] 2. (Of drugs) sold legally without a doctor's prescription <over-the-counter cough medicine>. — Abbr. OTC. [Cases: Health 303, 305.]

#### OVER-THE-COUNTER MARKET

over-the-counter market.The market for securities that are not traded on an organized exchange. • Over-the-counter (OTC) trading usu. occurs through telephone or computer negotiations between buyers and sellers. Many of the more actively traded OTC stocks are listed on NASDAQ. — Abbr. OTC market. [Cases: Securities Regulation 35.13. C.J.S. Securities Regulation § 104.]

#### OVERTIME

overtime. 1. The hours worked by an employee in excess of a standard day or week. • Under the Fair Labor Standards Act, employers must pay extra wages (usu. 1 1/2 times the regular hourly rate) to certain employees (usu. nonsalaried ones) for each hour worked in excess of 40 hours per week. [Cases: Labor Relations 1269. C.J.S. Labor Relations §§ 1143–1144.] 2. The extra wages paid for excess hours worked.

#### OVERTRY

overtry,vb. (Of a trial lawyer) to try a lawsuit by expending excessive time, effort, and other resources to explore minutiae, esp. to present more evidence than the fact-trier can assimilate, the result often being that the adversary gains arguing points by disputing the minutiae.

#### OVERTURN

overturn,vb. To overrule or reverse <the court overturned a long-established precedent>. [Cases: Courts 100(1). C.J.S. Courts §§ 147–148.]

#### OWCP

OWCP.abbr.OFFICE OF WORKERS' COMPENSATION PROGRAMS.

#### OWELTY

owelty (oh-<<schwa>>l-tee).1. Equality as achieved by a compensatory sum of money given after an exchange of parcels of land having different values or after an unequal partition of real property. [Cases: Partition 84.C.J.S. Partition §§ 3, 122.] 2. The sum of money so paid.

#### OWI

OWI.abbr.Operating while intoxicated. See DRIVING UNDER THE INFLUENCE. [Cases: Automobiles 332. C.J.S. Motor Vehicles §§ 1382–1394.]



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**OWING**

owing,adj. That is yet to be paid; owed; due <a balance of \$5,000 is still owing>.

**OWLING**

owling.Hist. The smuggling of wool or sheep out of England. • The term usu. refers to nighttime smuggling.

**OWN**

own,vb. To rightfully have or possess as property; to have legal title to.

**OWNED-PROPERTY EXCLUSION**

owned-property exclusion.See EXCLUSION(3).

**OWNER**

owner. One who has the right to possess, use, and convey something; a person in whom one or more interests are vested. • An owner may have complete property in the thing or may have parted with some interests in it (as by granting an easement or making a lease). See OWNERSHIP.

adjoining owner.A person who owns land abutting another's; ABUTTER. [Cases: Adjoining Landowners 1. C.J.S. Adjoining Landowners §§ 2, 6–8, 39.]

beneficial owner. 1. One recognized in equity as the owner of something because use and title belong to that person, even though legal title may belong to someone else; esp., one for whom property is held in trust. — Also termed equitable owner. [Cases: Trusts 139. C.J.S. Trover and Conversion § 251.] 2. A corporate shareholder who has the power to buy or sell the shares, but who is not registered on the corporation's books as the owner. [Cases: Corporations 135. C.J.S. Corporations § 282.] 3.Intellectual property. A person or entity who is entitled to enjoy the rights in a patent, trademark, or copyright even though legal title is vested in someone else. • The beneficial owner has standing to sue for infringement. A corporation is typically a beneficial owner if it has a contractual right to the assignment of the patent but the employee who owns the patent has failed to assign it. Similarly, a patent or copyright owner who has transferred title as collateral to secure a loan would be a beneficial owner entitled to sue for infringement.

copyright owner.See COPYRIGHT OWNER.

equitable owner.See beneficial owner (1).

general owner.One who has the primary or residuary title to property; one who has the ultimate ownership of property. Cf. special owner.

legal owner.One recognized by law as the owner of something; esp., one who holds legal title to property for the benefit of another. See TRUSTEE(1). [Cases: Trusts 133. C.J.S. Trover and Conversion §§ 245–246.]

limited owner.A tenant for life; the owner of a life estate. See life estate under ESTATE(1). [Cases: Life Estates 1. C.J.S. Estates §§ 28–29, 31, 34.]

naked owner. Civil law. A person whose property is burdened by a usufruct. • The naked owner has the right to dispose of the property subject to the usufruct, but not to derive its fruits. See USUFRUCT. [Cases: Estates in Property 1. C.J.S. Estates §§ 2–5, 8, 15–21, 116–128, 137, 243.]

owner of record. See record owner.

owner pro hac vice (proh hahk vee-chay). See demise charter under CHARTER (8).

record owner. 1. A property owner in whose name the title appears in the public records. 2. STOCKHOLDER OF RECORD.

sole and unconditional owner. Insurance. The owner who has full equitable title to, and exclusive interest in, the insured property. [Cases: Insurance 2992(2).]

special owner. One (such as a bailee) with a qualified interest in property. Cf. general owner.

#### OWNERS' ASSOCIATION

owners' association. The basic governing entity for a condominium or planned unit development. • It is usu. an unincorporated association or a nonprofit corporation. [Cases: Condominium 8. C.J.S. Estates §§ 211–216, 230.]

#### OWNERS' EQUITY

owners' equity. The aggregate of the owners' financial interests in the assets of a business entity; the capital contributed by the owners plus any retained earnings. • Owners' equity is calculated as the difference in value between a business entity's assets and its liabilities. — Also termed (in a corporation) shareholders' equity; stockholders' equity. [Cases: Corporations 182.1(2). C.J.S. Corporations § 340.]

“Owner's equity is the residual claim of the owners of the business on its assets after recognition of the liabilities of the business. Owner's equity represents the amounts contributed by the owners to the business, plus the accumulated income of the business since its formation, less any amounts that have been distributed to the owners.” Charles H. Meyer, *Accounting and Finance for Lawyers in a Nutshell* 4 (1995).

#### OWNERSHIP

ownership. The bundle of rights allowing one to use, manage, and enjoy property, including the right to convey it to others. • Ownership implies the right to possess a thing, regardless of any actual or constructive control. Ownership rights are general, permanent, and heritable. Cf. POSSESSION; TITLE(1). [Cases: Property 7, 11. C.J.S. Property §§ 24–31, 33–34.]

“Ownership does not always mean absolute dominion. The more an owner, for his advantage, opens up his property for use by the public in general, the more do his rights become circumscribed by the statutory and constitutional powers of those who use it.” *Marsh v. Alabama*, 326 U.S. 501, 506, 66 S.Ct. 276, 278 (1946) (Black, J.).

“Possession is the de facto exercise of a claim; ownership is the de jure recognition of one. A

thing is owned by me when my claim to it is maintained by the will of the state as expressed in the law; it is possessed by me, when my claim to it is maintained by my own self-assertive will. Ownership is the guarantee of the law; possession is the guarantee of the facts. It is well to have both forms if possible; and indeed they normally co-exist.” John Salmond, *Jurisprudence* 311 (Glanville L. Williams ed., 10th ed. 1947).

bare ownership. See trust ownership.

beneficial ownership. 1. A beneficiary's interest in trust property. — Also termed equitable ownership. [Cases: Trusts 139. C.J.S. *Trover and Conversion* § 251.] 2. A corporate shareholder's power to buy or sell the shares, though the shareholder is not registered on the corporation's books as the owner.

bonitary ownership (bahn-<<schwa>>-tair-ee). Roman law. A type of equitable ownership recognized by the praetor when the property was conveyed by an informal transfer, or by a formal transfer by one not the true owner. — Also termed bonitarian ownership; in bonis habere.

complete ownership. Hist. Louisiana law. See perfect ownership.

contingent ownership. Ownership in which title is imperfect but is capable of becoming perfect on the fulfillment of some condition; conditional ownership.

corporeal ownership. The actual ownership of land or chattels.

equitable ownership. See beneficial ownership (1).

full ownership. Hist. Louisiana law. See perfect ownership.

imperfect ownership. Louisiana law. Ownership of property subject to a usufruct interest held by another. See La. Civ. Code art. 478. — Also termed naked ownership.

incorporeal ownership. The ownership of rights in land or chattels.

joint ownership. Undivided ownership shared by two or more persons. • Typically, an owner's interest, at death, passes to the surviving owner or owners by virtue of the right of survivorship. [Cases: Joint Tenancy 1. C.J.S. *Estates* § 19; Joint Tenancy §§ 2, 4, 7–9.]

naked ownership. Louisiana law. See imperfect ownership.

ownership in common. Ownership shared by two or more persons whose interests are divisible. • Typically their interests, at death, pass to the dead owner's heirs or successors. [Cases: Tenancy in Common 1. C.J.S. *Estates* § 19; Tenancy in Common §§ 2–5.]

perfect ownership. Hist. Louisiana law. The complete bundle of rights to use, enjoy, and dispose of property without limitation. — Also termed full ownership; complete ownership.

qualified ownership. Ownership that is shared, restricted to a particular use, or limited in the extent of its enjoyment.

trust ownership. A trustee's interest in trust property. — Also termed bare ownership. [Cases: Trusts 133. C.J.S. *Trover and Conversion* §§ 245–246.]

unqualified ownership.Absolute ownership.

vested ownership.Ownership in which title is perfect; absolute ownership.

#### OWNERSHIP-IN-PLACE THEORY

ownership-in-place theory.Oil & gas. A characterization of oil-and-gas rights used in a majority of jurisdictions, holding that the owner has the right to present possession of the oil and gas in place as well as the right to use the land surface to search, develop, and produce from the property, but that the interest in the minerals terminates if the oil and gas flows out from under the owner's land. • This theory is used in Texas, New Mexico, Kansas, Mississippi, and other major producing states. The rights of a severed-mineral-interest owner to oil and gas in these states are often described as an estate in fee simple absolute, but ownership of specific oil-and-gas molecules is subject to the rule of capture. See NONOWNERSHIP THEORY.

#### OWNER'S POLICY

owner's policy.Real estate. A title-insurance policy covering the owner's title as well as the mortgagee's interest. Cf. MORTGAGEE POLICY. [Cases: Insurance 2610; Mortgages 201. C.J.S. Insurance §§ 57, 1061, 1232–1235, 1237; Mortgages §§ 311–314.]

#### OWN-PRODUCT EXCLUSION

own-product exclusion.See EXCLUSION(3).

#### OWN-WORK EXCLUSION

own-work exclusion.See EXCLUSION(3).

#### OXFIELD

oxfield (oks-fild).Hist. A restitution made by a county or hundred for a wrong done by someone within that region.

#### OXGANG

oxgang (oks-gang).Hist. An amount of land equal to what an ox plows in one year, usu. 12 to 15 acres. • An oxgang, equaling one-eighth of a carucate, was used to assess land for tax purposes. — Also termed oxgate; bovata terrae. Cf. CARUCATE.

#### OYER

oyer (oy-<<schwa>>r oroh-y<<schwa>>r). [fr. Old French oïr “to hear”] Hist. 1.A criminal trial held under a commission of oyer and terminer. See COMMISSION OF OYER AND TERMINER. 2. The reading in open court of a document (esp. a deed) that is demanded by one party and read by the other. 3.Common-law pleading. A prayer to the court by a party opposing a profert, asking to have the instrument on which the opponent relies read aloud. • Oyer can be demanded only when a profert has been properly made, but it is disallowed for a private writing under seal. [Cases: Bills and Notes 488; Pleading 306. C.J.S. Bills and Notes; Letters of Credit §§ 267, 293; Pleading §§ 520–522.]

“A party having a right to demand oyer is yet not obliged, in all cases, to exercise that right; nor is he obliged, in all cases, after demanding it, to notice it in the pleading he afterwards files or delivers. Sometimes, however, he is obliged to do both, namely, where he has occasion to found his answer upon any matter contained in the deed of which profert is made, and not set forth by his adversary. In these cases the only admissible method of making such matter appear to the court is to demand oyer, and, from the copy given, set forth the whole deed verbatim in his pleading.” Benjamin J. Shipman, *Handbook of Common-Law Pleading* § 289, at 483 (Henry Winthrop Ballantine ed., 3d ed. 1923).

#### OYER, DEMAND OF

oyer, demand of. See DEMAND OF OYER.

#### OYER AND TERMINER

oyer and terminer (oy-*<<schwa>>*r an[d] t*<<schwa>>*r-m*<<schwa>>*-n*<<schwa>>*r). [Law French oyer et terminer “to hear and determine”] 1.COMMISSION OF OYER AND TERMINER . 2.COURT OF OYER AND TERMINER.

#### OYEZ

oyez (oh-yes oroh-yez oroh-yay). [Law French] Hear ye. • The utterance oyez, oyez, oyez is usu. used in court by the public crier to call the courtroom to order when a session begins or when a proclamation is about to be made.