

GLOSSARY OF LEGAL TERMS

- ab initio*“from the beginning”
- acceptance.....assent to an offer by the one to whom the offer was made.
- accord and satisfactionagreement as to amount owed and payment of that amount.
- ACO.....Administrative Contracting Officer
- action ex contractu*suit arising out of contract.
- action ex delicto*suit arising independent of contract resulting from breach of a positive legal duty.
- affirmto uphold on appeal the lower court’s ruling.
- agentone employed to transact business for another.
- appellant.....one who appeals a lower tribunal’s decision to a higher tribunal.
- appellee.....on appeal, the party prevailing in the lower tribunal.
- ASPA.....Armed Services Procurement Act
- audi alteram partem*understand both sides of the argument.
- bailment contract.....an agreement for the delivery of personal property in trust for a specific purpose, to be returned when the specific purpose is accomplished.
- bilateral contract.....one formed by a “promise for a promise.”
- breach of contractfailure to perform as agreed.
- briefwritten argument submitted on trial or appeal in support of pleadings.
- burden of proof.....the responsibility of providing allegations made.
- case in pointa case with facts and issues similar to the one in question.
- caveat emptor*let the buyer beware.
- certiorari*an order by a superior court ordering up a court record of an inferior court.
- change orderan order by one party to a contract, modifying it pursuant to authority
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contained in the contract.

CICA.....Competition in Contracting Act

citationthe case number or volume and page number used to identify a case or statute.

civil lawlaw of the Roman Empire - Justinian “*corpus juris civilis*” - 533 A.D.

civil liabilityliability to be sued for infringing on the rights of other individuals.

COCCertificate of Competency

Clear & Convincinga standard of proof which will produce in the mind of the trier of fact a firm belief in the facts sought to be established. It is a higher standard than “preponderance” but less than “beyond a reasonable doubt.”

common lawsometimes called the “unwritten law”

consideration.....something of value exchanged by the parties, making the contract enforceable.

contra proferentum.....against the party who proffers or puts forward a thing.

contract damages.....financial loss resulting from breach of contract.

counter-offer.....a counter-proposal made by the offeree to the offeror.

counterclaim.....a claim which the defendant makes against the plaintiff, usually a matter arising out of the same transaction which led to plaintiff’s claim.

CPIFCost-Plus-Incentive-Fee

criminal liabilityliability to prosecution for offenses against the public.

D & FDetermination and Findings

DFARS.....Department of Defense Federal Acquisition Regulation Supplement.

danmum absque injuria.....damage without the violation of a legal right.

decisionthe ruling of the court on a motion or pleading.

defendantone against whom a law suit is instituted.

de novoa new hearing in which the judgment of the trial is suspended and the reviewing court gives a new determination of the case.

dictum.....that part of a judge’s opinion other than the ruling or findings.

e.g.for example. (L. *exempli gratia*)

ejusdem generis.....Where several items are listed as examples of matter included within the coverage of a statute, regulation, or contract, any other items included must be “of the same kind.”

en bancFr. - “in bank” - wherein all judges are in attendance, as opposed to hearings by one judge of a court.

equity.....that portion of remedial justice which is exclusively administered by a court of equity, as distinguished from court of common law. (Law and equity jurisdiction are now combined at the Federal level.)

estoppel.....precludes a person from denying past actions or statements under certain circumstances.

et al.....and others.

et seq.....and the following (L. *et sequitur*)

ex partea legal proceeding where only one party is heard.

ex post facto.....“from past fact” - descriptive of laws given retroactive effect. May not be used to render illegal an act legal when performed.

executed contract.....a contract completely performed; also, a signed contract.

executory contract.....a contract not yet performed.

express authority.....authority expressly conferred upon an agent.

express contract.....a contract wherein there are express promises to do something or to refrain from doing something.

FARFederal Acquisition Regulation

FMS.....Foreign Military Sales

FOIA.....Freedom of Information Act

FPASA.....Federal Property and Administrative Services Act

GAOGeneral Accounting Office

GATT.....General Agreement on Trade and Tariffs

GFP.....Government Furnished Property

granteeone to whom title to real estate is conveyed.

grantor.....one who conveys title to real estate.

i.e.....that is. (L. *id est*)

ibid.....in the same place (L. *ibidem*)

implied authorityauthority incidental to express authority and necessary to the exercise of the authority actually granted.

implied in fact contracta contract existing by virtue of the actions of the parties rather than express promises.

improper venuesuit brought in wrong territorial location, e.g., wrong county.

in pari materiadescriptive of matters which are related and should be considered together; e.g. two statues bearing on the same situation.

incorporeal heriditamentan intangible right collateral to tangible personal property or real estate; e.g., real estate rentals.

infrareferenced hereafter.

journal entrythe written, signed record of orders of the court.

laches.....common law defense barring actions not timely initiated.

lack of jurisdiction.....where the court is without authority to hear the case.

lawthe whole body or system of rules of conduct, including both decisions of courts and legislative acts.

lessee.....one to whom real estate is leased.

lessor.....owner of real estate who leases same.

liquidated damages.....damages established as to liability and amount

motion.....the means by which a party requests a particular action by the court in the disposition of a suit.

mutuality of obligationthat element of a bilateral contract by virtue of which both of the parties are bound or neither is bound; a duty of each party to do something inconsideration of the other party's act or promise.

nudum pactuma naked promise -- one not supported by a consideration and therefore unenforceable.

offera proposal by one person to another which is intended of itself to create legal relations on acceptance by the person to whom it is made.

offereeone to whom an offer is made.

offerorone making an offer.

past consideration.....value received prior to the present contract -- generally insufficient to support a promise.

petition.....the pleading by which a law suit is initiated.

plaintiffone who institutes a law suit.

precedentprior rulings in similar cases, used as authority for ruling in the case at the bar.

prima facie caseevidence sufficient to support a favorable verdict if not rebutted by the other side.

principal.....adj. -- most important, consequential or influential.

principal.....n. -- one who employs an agent to transact business for him.

principle.....n. -- a fundamental law, doctrine or assumption.

privity of contractThe relationship between parties to contract.

quantum meruitat common law, an action for the reasonable value of

quasi-contract.....contract implied in law--a creation of the courts to prevent unjust enrichment of one party by another.

quid pro quo“that for this”--descriptive of the requirement of consideration in contracts.

relatorone upon whose “relation” a quasi-criminal suit is instituted.

remandto return a matter to a lower court with instructions to that court for further proceedings.

reply.....plaintiff’s response to new matters raised in defendant’s answer.

res gestae(law of torts)--peripheral matters closely connected with a transaction and necessary to a proper understanding of it.

res ipsa loquitur.....“the thing speaks for itself” -- (law of torts) descriptive of facts so self-evident as to make a *prima facie* case.

respondentthe “accused” person in a quasi-criminal suit.

reverseto overturn or appeal the lower court’s rulings.

set-offreduction of one demand by an opposite one, usually ascertained in amount and unrelated to the original claim.

speciousadj. -- having a false look of truth or genuineness.

stare decisis“let the decision stand.” The principle that prior decisions of court should stand as precedent for future guidance.

statute of fraudsrequires certain contracts to be in writing to be enforceable.

statute of limitationbars actions commenced beyond a statutory time limit.

supplemental agreementan agreement supplementing the principal contract.

suprareferenced above.

syllabuseditorial headnote to a reported case, giving the law of the case.

TAATrade Agreement Act

torta wrong committed against the person or property of another -- one of the two classes of civil actions, the other being contract actions.

trial *de novo*.....a new trial.

ultra vires contract.....a contract of a corporation which is not within the express or implied powers conferred upon the corporation by the instrument of its creation.

undisclosed principal.....a principal whose agent contracts in his own name, without disclosing the principal’s name.