

*This vocabulary list focuses primarily on how various legal terms are used in Zero-L. Lists such as these can be helpful up to a point, but, as you will soon see, learning the law is not a matter of memorizing terms, in part because legal terms have many context-specific nuances that we have deliberately put to one side for purposes of this course. For those reasons, we recommend you treat this vocabulary list as helpful initial guidance for your law school classes, but caution that you will (of course) need to pay careful attention to the more specific uses of these terms that you encounter in classes.*

- **Acquittal:** A judgment holding that the state has failed to meet its burden of proving the defendant guilty. A judgment of acquittal will be imposed if a jury returns a verdict of “not guilty,” or (in some cases) if the judge determines that the evidence presented by the prosecutor is insufficient to establish the defendant’s guilt as a matter of law.
- **Actus Reus Element:** The element in a given criminal statute that defines the culpable action that an offender must commit in order to be guilty of the crime at issue.
- **Administrative Law:** The area of law governing agencies, a core concern of which is protecting against the excesses of agency power.
- **Administrative Procedure Act (“APA”):** A sort of “uber” statute that governs all federal agencies and establishes the default procedures that every federal agency must follow, unless they are expressly exempted. One of the most important statutes in administrative law.
- **Affirm:** A disposition in which a court of appeals or supreme court leaves the judgment or ruling immediately below intact. However, the reasoning the court offers for that result may have changed.
- **Alienation:** Transfer of property to another.
- **Allegation:** A statement that something is true that has not yet been proven. Often it refers to a factual assertion that a party claims can be proven at trial.
- **Alternative Dispute Resolution (ADR):** Various alternatives to litigating in courts such as negotiation, mediation, and arbitration.
- **Answer:** A pleading by the defendant that addresses the merits of the plaintiff’s case. It typically goes line by line through the complaint and explains whether each fact alleged in the complaint is true, false, or whether the defendant for some justifiable reason cannot say whether it is true or false. It also may introduce its own claims by the defendant against the plaintiff.
- **Appeal As of Right:** When an appellate court is required to hear an appeal, as opposed to a “discretionary appeal,” when an appellate court can decide whether or not to hear an appeal.”
- **Appeal:** The review in one court of the proceedings and decisions of another, either as to law or fact, or both.

- **Appellant:** On appeal, the party who lost the case in the court below.
- **Appellate:** An adjective meaning relating to courts of appeal.
- **Appellee:** On appeal, the party who won the case in the court below.
- **Article I of the Constitution:** The section of the U.S. Constitution that establishes and empowers the Legislative branch of the federal government.
- **Article II of the Constitution:** The section of the U.S. Constitution that establishes and empowers the Executive branch of the federal government.
- **Article III of the Constitution:** The section of the U.S. Constitution that establishes and empowers the Judicial branch of the federal government.
- **Articles of Confederation:** An agreement among the 13 original states arranging themselves as a confederacy or a federation.
- **Bail:** A form of pretrial detention whereby a defendant is incarcerated prior to trial unless and until he is able to deposit a sum of money with the court system (i.e., to “post bail”) that will be returned to him only if he comes to court for all future required appearances.
- **Battery:** A particular tort that consists of one person intentionally causing harmful or offensive physical contact with another person; absent special circumstances, a person who punches, kicks, or fondles another person commits the tort of battery.
- **Bench Trial:** A trial before a judge.
- **Bicameralism:** Refers to the practice of having two “chambers” or “houses” of the legislative branch, each of which must pass a bill before it becomes law. A federal statute must be passed by both the House of Representatives and the Senate before it becomes law.
- **Bill of Rights:** The first ten Amendments to the Constitution, submitted to the states for ratification in 1789 and ratified in 1791, and guaranteeing rights such as the freedoms of speech, assembly, and worship.
- **Bill:** A proposed law under consideration by a legislature. A bill does not become a law until it is passed by both the House of Representatives and the Senate and either approved by the President or a Presidential veto is overcome.
- **Breaching a contract:** To fail to fulfill contractual obligations. In other words, to break the contract.

- ***Brown v. Board of Education***: A landmark Supreme Court decision made in 1954 in which the Court declared state laws establishing separate public schools for black and white students to be unconstitutional, rejecting the doctrine of “separate but equal.”
- **Burden of Persuasion**: The burden on a party to prove its claim to the judge (or jury). It is a kind of threshold one’s claim must cross. Common examples include the usual civil law standard of “preponderance of the evidence,” more likely than not, and the criminal law standard of “beyond a reasonable doubt,” a much higher threshold.
- **Caption**: The heading of a case which includes the names of the parties, the name of the court issuing the opinion, the date of the opinion, and sometimes other identifying information.
- **Cause of Action**: A claim, a set of facts that entitles one party to obtain a remedy from another party in court.
- **Certiorari**: The Supreme Court’s discretionary review of an action by a lower court or agency. To request that the Supreme Court hear an appeal, a party must file a petition (pleading) for certiorari. If the Court decides to hear the appeal, it will issue a writ of certiorari, which orders the lower court to provide its files and records for review. Often called “cert.” for short.
- **Circuit Court**: An intermediate appellate federal court one level below the U.S. Supreme Court.
- **Citation**: Includes the name of a case, the name of the court that decided it, the year the case was decided, the reporter, and the page number on which the case starts in the relevant reporter.
- **Civil Law Jurisdiction**: A legal system built around comprehensive codes. Examples include France, Germany, and the state of Louisiana.
- **Civil Procedure**: A first-year law school class that is all about civil litigation.
- **Civil service protection**: The limitations on how members of the bureaucracy can be fired, demoted, or disciplined.
- **Claim for Relief**: A part of the complaint that describes what the plaintiff is seeking in the suit, e.g., money damages, an injunction, etc.
- **Comment**: Statements by the public about a proposed rule, typically in written form.
- **Common Law Jurisdiction**: A legal system where law is made largely by court decisions rather than legal codes. Examples include the U.S. and other former British colonies.
- **Common Property**: Property belonging to multiple people or a group rather than an individual.

- **Compensatory Damages:** The type of damages to which a successful tort plaintiff is usually entitled, and which provide the plaintiff with a payment meant to offset the losses she suffered as a result of the tort. Compensatory damages often include medical expenses, lost wages, and compensation for emotional harm and pain and suffering.
- **Compensatory Damages:** The typical remedy provided to a successful tort plaintiff, consisting of a monetary payment in an amount that covers losses suffered by a tort victim as a result of the tort, including lost income, medical bills, and pain and suffering.
- **Complaint:** A document that states the basis of a lawsuit (often divided into the **statement of jurisdiction, cause of action, and claim for relief** -- see definitions below).
- **Concurrent Resolution:** A legislative measure adopted by the Senate and House of Representatives that does not require the approval of the President. A concurrent resolution does not have the force of law.
- **Concurring Opinion:** An opinion by a judge who agrees with the majority on the outcome of the case but disagrees with the majority on something or has something to add. Also called a “concurrence.”
- **Conference Committee:** A committee made up of members from both the Senate and House of Representatives that meets, negotiates, and agrees to a new, compromised version of a particular bill when each house passes a different version.
- **Congressional Delegation:** The process by which Congress delegates power to administrative agencies.
- **Consequentialism:** A moral philosophy in which the rightness or wrongness of an action is judged solely by its consequences.
- **Consequentialist/Utilitarian Theory of Punishment:** A theory that seeks to justify the state’s decision to punish someone by appealing to the benefit to society that such punishment is thought to afford (for example, by incapacitating a dangerous individual or by deterring that person or others from committing future crimes).
- **Consideration:** The “quid pro quo” – the thing given in return for something else – that is necessary to make an agreement legally enforceable. In many cases this will be a reciprocal exchange of promises.
- **Constitutional Amendment:** A change to the Constitution proposed either by the Congress, with a two-thirds majority vote in both the House of Representatives and the Senate, or by a constitutional convention called for by two-thirds of the state legislatures.

- **Constitutional democracy:** A system of government based on popular sovereignty in which the structures, powers, and limits of government are set forth in a constitution.
- **Constitutional Law:** The body of law that derives from the U.S. Constitution. It defines the role of the branches of federal government, divides authority between the federal government and the states, and enumerates the basic rights of citizens. States also have constitutional law based on their state constitutions, but when we speak of it we typically specify “state constitutional law.”
- **Conveyance:** Voluntary transfer of property.
- **Conviction:** A judgment holding the defendant liable for the charged criminal offense. A judgment of conviction can be imposed if a trial ends in a guilty verdict, or if the defendant pleads guilty.
- **Corporations:** Organizations given special legal treatment and largely designed by lawyers. They are typically owned by their shareholders and treated as a single legal entity.
- **Cost-Plus Contract:** A contract in which the price is not fixed up front. Rather, the price is based on reimbursing the cost of performance plus an agreed-upon fee or markup rate.
- **Counterfactual:** Relating to or expressing what has not happened or is not the case.
- **Cross-references:** When statutes reference one another.
- **Dead-Hand Control:** A common problem in property law characterized by owners conveying property with specific conditions on future users or owners, which may devalue the property or prevent it from being beneficially used at some later time.
- **Declaration of Independence:** The formal public announcement by the Continental Congress on July 4, 1776, reciting the grievances of the American colonies against the British government and declaring them to be free and independent states.
- **Declaratory Judgment:** A remedy that is a mere statement of what the law is.
- **Defensive Medicine:** The practice in which doctors order a test or procedure primarily for the purpose of avoiding liability rather than to improve a patient’s health.
- **Deliberate:** The process of the jury reviewing and weighing the evidence after trial to reach a verdict.
- **Deterrence:** Using the threat of legal sanctions to induce persons or firms to change their behavior; some argue that deterrence is the main value or purpose of tort law, in that the threat of tort liability induces people to behave more carefully.

- **Discovery:** The process by which one party makes another party (or in some cases non-party) provide information needed for the case, including asking for documents, requiring an opposing party to answer interrogatories, and depositions.
- **Disposition:** The court's determination of what should happen in a case. It is an action and is usually found in the last few lines of a majority opinion.
- **Dissenting Opinion:** An opinion by a judge who would have ruled differently than the majority. Also called a "dissent."
- **District Court:** In the federal system, the general trial court (sometimes referred to as a "court of first instance").
- **Domestic Law:** The law that is made by U.S. sovereigns and governs activities on U.S. soil. In some cases, it may also govern U.S. citizens or others within the jurisdictional power of the U.S. even though they may not be physically present in the U.S.
- **Due Process Clause:** A provision of the U.S. Constitution that, in abbreviated form, states "No person shall be... deprived of life, liberty, or property, without due process of law."
- **Duty to Retreat:** Also known as a "retreat rule." A requirement of the criminal law of some states that you may not claim self-defense if you could have safely retreated, but did not, before using deadly force against an attacker.
- **Element:** A basic definitional component of a criminal offense. Elements generally fall into three categories: actus reus elements, mens rea elements, and "causation of harm" elements.
- **En Banc:** A French expression, which translates to "on the bench." In the federal system, en banc refers to an appeal in which all the qualified judges hear and decide the case instead of just a subset of the judges (as is typical in appeals).
- **Ex Ante:** A Latin phrase meaning "before the event." The ex ante perspective asks how a decision about the law will affect the event in question, if it happens at all. For example, how does the state of the law affect various actors' incentives to behave in certain ways.
- **Ex Post:** A Latin phrase meaning "after the event." The ex post perspective asks how the law should respond to an event after it occurs. For example, how should the law best compensate those who have been injured.
- **Execute the Judgment:** Additional steps needed to effectuate the Court's judgment. For example, if the plaintiff gets money damages from someone they may seek to garnish the defendant's wages (i.e., deduct a certain amount every month) in order to get paid back over time.

- **Executive Agencies (Executive Branch Agencies):** Agencies that are headed by individual appointees nominated by the President who can be removed by the President for any reason.
- **Executive branch:** The managerial branch of the U.S. government, which includes the President, the police force, the military, the writer of the checks, the printer of the money, the builder of the roads, and the manager of the post office.
- **Expectation Damages:** A type of damages award in which the party who breached the contract must pay monetary damages that compensate the victim by placing the victim in as good a financial position as she would have been had the contract been performed.
- ***Expressio Unius Est Exclusio Alterius:*** A linguistic canon of construction that means that if you specify one thing, you implicitly exclude the things you don't specify.
- **Expressivist Theory of Punishment:** A theory that seeks to justify the state's decision to punish someone by appealing to the idea that such punishment could help clarify and reinforce the shared moral and ethical commitments of a given society or community.
- **Family Court:** A court with jurisdiction over affairs of children (e.g., adoption, custody, maintenance, neglect, abuse, and abandonment) and families (e.g., divorce, alimony).
- **Federal Register:** The compendium of proposed and finalized rules -- a sort of newspaper for the federal regulatory state.
- **Federal Rules of Civil Procedure:** The set of rules governing civil litigation in federal court.
- **Federal:** Relating to the U.S. government (as opposed to U.S. state governments).
- **Federalism:** A form of government, such as in the U.S., in which power is divided between a central (federal) government and regional (state) governments.
- **Fee-shifting:** Refers to transferring one party's attorney's fees to the other party in the case. Typically, the shift is that the loser pays the winner's fees.
- **Fifth Amendment:** The amendment of the U.S. Constitution that, among other things, prohibits deprivations of life, liberty, or property, without due process of law (the "Due Process Clause") and also states that if the state takes private property for public use, it must provide just compensation (the "takings clause").
- **First Amendment:** The amendment of the U.S. Constitution that includes protections for freedom of speech, freedom of the press, the free exercise of religion (the "free exercise clause"), and a prohibition on establishment of religion (the "establishment clause").
- **Fixed-Price Contract:** A contract in which the price for goods or services is set up front, before performance.

- **Formal Rulemaking:** The less common type of rulemaking governed by sections 556 and 557 of the APA, involving a trial-like process where an agency must present a case for the rule in front of an administrative law judge or other official.
- **Fourteenth Amendment:** The amendment of the U.S. Constitution adopted at the conclusion of the Civil War that extended rights and liberties against encroachment by state governments and contained guarantees of equal treatment of all persons. This amendment, among other things, also prohibits deprivations of life, liberty, or property, without due process of law (the "Due Process Clause").
- **Fourth Amendment:** The amendment of the U.S. Constitution that protects against unreasonable search and seizure and is very important for criminal procedure.
- **Gap-Filler:** A legal rule that fills a "gap" in a contract, in the sense that it supplies a term in the contract that the parties failed to include. For example, in many jurisdictions, law governing commercial transactions contains rules for supplying a price term in a contract when the parties have agreed on a definite exchange but failed to specify a sales price.
- ***Gideon v. Wainwright*:** A U.S. Supreme Court case holding that defendants charged with serious crimes have a federal constitutional right to a lawyer if they are too poor to pay for a lawyer themselves. The federal Constitution has been interpreted not to provide a similar right in the vast majority of civil cases.
- **Governing Law:** The law that applies in a particular situation. For example, the law that will be used to interpret a contract.
- **Gratuitous Promise:** A promise that is not supported by consideration, and thus usually not legally enforceable as a contract.
- **Habeas corpus:** A writ providing the right to a hearing after you are effectively arrested or detained by the government that can only be suspended by Congress.
- **Holding:** The legal rule announced by a case that could be used in future cases.
- **Impeachment:** The accusation of a public officer of unfitness or wrongdoing. The President of the United States can only be impeached for "treason, bribery, or other high crimes and misdemeanors."
- **Implied Term:** A term that is deemed to be part of a legally enforceable agreement even though it is not negotiated or stated explicitly.
- **Independent Agencies:** Agencies that are somewhat insulated from politics; instead of a single head, they are made of multiple members from different political parties who sit as a panel and vote on agency decisions.



- **Indictment:** A formal document that specifies the specific criminal offenses a defendant is accused of committing. An indictment (unlike a separate type of charging document known as an information) is formally issued by a group of civilians known as a grand jury.
- **Informal Rulemaking:** The more common type of rulemaking, otherwise known as “notice and comment” rulemaking because it allows for participation by interested parties. Governed by Section 553 of the APA.
- **Information:** A formal document that specifies the specific criminal offenses a defendant is accused of committing. An information (unlike a separate type of charging document known as an indictment) is issued directly by the prosecuting attorney.
- **Injunctive Relief:** A court order for someone to do something or refrain from doing something.
- **Injury:** A type of loss or setback experienced by a person or firm that, when caused by wrongful conduct, amounts to a tort; for example, bodily harm or property damage is an injury that, when it is caused by another’s careless conduct, amounts to the tort of negligence.
- **Institutional Competence:** An argument that a certain kind of institution, most often courts, are ill-equipped to make certain decisions, and that such decisions should be made by another institution (e.g., legislatures or agencies).
- **International Law:** The set of rules that countries follow in dealing with each other. This includes the relationship between sovereign states and international entities, such as the International Criminal Court, as well as supranational law, such as the law of the European Union that governs its members.
- **Interrogatory:** A form of discovery wherein a party must answer questions they receive in writing.
- **Invalid:** Not legally binding. A law could be said to be invalid if it violates the Constitution.
- **Joint Resolution:** A legislative measure that requires approval by the Senate and House of Representatives and is presented to the President for approval. It is like a Bill except it cannot be used to propose a constitutional amendment.
- **Judgment:** The Court’s final determination in the case of who should win and what remedy they are entitled to (if any).
- **Judicial branch:** The Courts. The branch responsible for deciding cases or controversies; the branch that claims responsibility for saying what the law is.
- **Jurisdiction:** The power to make legal decisions and judgments. To say that a court “has jurisdiction” refers to its power to pronounce law, especially its power to hear a certain type of case or adjudicate disputes between particular persons. But “jurisdiction” is sometimes used

differently in other contexts. For example, “this jurisdiction” refers to “this state” or “this nation’s laws.”

- **Jury trial:** A trial before a jury.
- **Juvenile Court:** A court with jurisdiction over criminal cases involving minors.
- **Law Clerk:** A lawyer (in many cases a recent law school graduate) who works closely with a judge assisting him or her.
- **Legal Issue:** A question relating to the law by which a case is to be decided, as opposed to “factual issues.”
- **Legal Positivism:** The idea that a rule is a law if, and only if, the rule is the command of the sovereign to its subjects and if the failure to follow that rule is backed up by the threat of punishment. Associated with John Austin and Jeremy Bentham.
- **Legislative branch:** The rule-making body of the U.S. government, which operates as a large deliberative body negotiating and coming to general conclusions in the forms of laws. It is made up by the House of Representatives and the Senate, collectively referred to as “Congress.”
- **Legislative History:** Congressional recordings of its proceedings, such as committee reports and statements on the floor by legislative sponsors. Legislative history can serve as a tool for statutory interpretation.
- **Legislative Intent:** Congress’s policy instructions that the judiciary tries to ascertain.
- **Legislative Supremacy:** The doctrine that when Congress passes a statute, a judge in the U.S. constitutional system has a duty to try to figure out Congress’s policy instructions for it.
- **Liability:** Legal responsibility. Someone is liable for a harm suffered by a party when he or she is legally and financially responsible for that harm.
- **Liability:** Whether one party should be held responsible for the injuries of another party.
- **Libel:** A false statement that defames or injures the reputation of a living person that is published in a written, printed, or electronic form in words or images.
- **Linguistic Canons:** Common-sense presumptions about the way people use language used to help find the meaning of words and phrases in statutes.
- **Litigator:** A lawyer that handles lawsuits. Litigators draft complaints, choose a court, investigate facts, take or defend depositions, prepare trial strategies, and cross-examine witnesses.
- **Lochner Period:** A period of American constitutional history (usually dated from around 1897 to 1937) in which the Supreme Court interpreted the Due Process clause to protect economic

rights and struck down several laws meant to improve working conditions, wages or hours as interfering with the liberty to contract. The era is named after a particular case, *Lochner v. New York*, 198 US 45 (1905), where the Supreme Court struck down as unconstitutional a New York law limiting the number of hours that could be worked in a bakery.

- **Mailbox Rule:** A rule of contract law providing that an acceptance of an offer becomes effective upon being properly dispatched in the mail.
- **Majority Opinion:** An opinion that is joined by a majority of the judges on a court.
- **Mens Rea Element:** The element in a given criminal statute that defines the culpable mental state an offender must possess when committing the offense in order to be guilty of the crime at issue.
- **Mergers and Acquisitions Lawyer (M&A):** A lawyer that works on deals involving corporations and complex contracts, specifying what a transaction will involve and how it will get done.
- **Merit Selection:** A process in which a non-partisan judicial nominating committee generates a list of potential judges from which the appointing authority (usually the governor of the state) selects who to appoint.
- **Miranda Warning:** The constitutional requirement that a person who is put in police custody must be advised of his right to remain silent and to have an attorney present. The rule was announced by the Supreme Court in *Miranda v. Arizona*, 384 U.S. 436 (1966).
- **Model Penal Code:** A template drafted by lawyers, law professors, and judges, that many states have relied upon when enacting their substantive criminal law.
- **Money Damages:** Money given to a party as a remedy for the harm they have suffered.
- **Motion for Judgment as a Matter of Law** (*still known as “directed verdict” in some states*): A motion made during the trial similar to the summary judgment motion saying essentially “given the evidence at trial I should win as a matter of law; no reasonable juror could think I should lose the case, so judge, please enter judgment to that effect right now and let’s not even ask the jury to deliberate.”
- **Motion for Summary Judgment:** A motion that essentially says to the court “we don’t need a trial on this case, because there is no genuine issue of material fact that is in dispute.”
- **Motion to Dismiss:** A motion that asks the court to dismiss a case. Essentially the motion is saying “even if you were to assume, judge, that every fact mentioned in the complaint was true, this case should not be heard and instead should be dismissed.”
- **Motion:** A written or oral application made to a court or judge to obtain a ruling or order in one’s favor.

- **Movant:** The person making a motion.
- **Municipal Court:** A court organized within a city, village, or township, with jurisdiction over offenses under local ordinances and certain petty offenses.
- **National Association for the Advancement of Colored People (“NAACP”):** A civil rights organization in the United States formed in 1909 to advance justice for African Americans.
- **Natural Law:** An opposing picture to legal positivism of the nature of law. This view is committed to the idea that law has a moral core, that moral facts determine legal content.
- **Negative Externality:** A harm that the injurer does not internalize (in the sense of the injurer bearing him or herself), but instead is suffered by another party.
- **Negligence:** A form of liability in tort law in which the wrongdoer (or “tortfeasor”) is held liable to pay damages to a victim because the wrongdoer injured the victim by means of careless or unreasonable conduct (rather than intentionally, or without any fault at all).
- **Negligence:** A particular tort that involves one person breaching a duty owed to another to avoid injuring the other through careless or negligent conduct.
- **New Deal:** President Franklin D. Roosevelt's executive program that greatly expanded federal agencies after the Great Depression, intended to build a social safety net and help the economy recover.
- **Notice and Comment Rulemaking:** Another name for informal rulemaking.
- **Notice:** The process of publishing a proposed rule in the federal register.
- **Obiter Dictum:** Latin for “a remark by the way.” It is information in the opinion that is not necessary for the opinion and does not have binding precedential value. Often called “dictum” for short or “dicta” in plural.
- **Offer and Acceptance:** An offer is an expression of willingness by one person (the offeror) to enter into an agreement with another (the offeree). An acceptance is assent by the offeree to the terms of the offer in the manner requested by the offeror. Ordinarily, offer and acceptance are necessary for an agreement to be legally enforceable.
- **Oral deposition:** A form of discovery wherein a person is asked questions under oath in front of a court officer and a transcript is taken.
- **Ordinary Meaning:** The first step in statutory interpretation which involves giving the words in a statute their ordinary sense; dictionaries are useful starting points.

- **Parliamentary system:** A system of democratic governance that combines legislative and executive powers in many ways.
- **Personal Property:** Any item subject to ownership that is movable or intangible (meaning an asset without physical form, such as a bank account or trademark).
- **Petitioner:** The party seeking to have the Supreme Court review a case, through a writ of certiorari. Typically, the party that lost in the prior stage of the proceeding.
- **Plea Bargain:** An agreement between the prosecutor and the defendant whereby the prosecutor promises to either forgo certain charges or to recommend a lower sentence to the judge if the defendant pleads guilty to some agreed upon offense and thereby waives his right to a trial.
- **Plea Bargain:** An agreement in a criminal case between a prosecutor and defendant in which the defendant pleads guilty in exchange for a limited charge or a reduced sentence.
- ***Plessy v. Ferguson*:** A landmark Supreme Court decision made in 1896 that upheld the constitutionality of racial segregation laws for public facilities as long as the segregated facilities were equal in quality – a doctrine that came to be known as "separate but equal."
- **Pocket Veto:** A legislative maneuver that allows a president to exercise veto power. When Congress is no longer in session, the president can perform a pocket veto by taking no action on a bill for ten days.
- **Post-trial Motions:** Motions after a trial made by the losing party, including giving reasons why the verdict should be set aside and replaced with a judgment that goes in the other direction or why there should be a new trial.
- **Preamble to the Final Rule:** The summary of an agency's consideration of the comments received on an informal rulemaking, including a concise and general statement of the rule's basis and purpose, the agency's response, and any changes made from the proposed rule.
- **Precedent:** A decision made in an earlier case that resolves (or at least has bearing on) a legal question in a new case. It may serve as a reason to resolve similar legal questions in the same way. Alternatively, a court or an advocate may try to "distinguish" the precedent and explain why it does not apply.
- **Presentment:** Refers to the practice of presenting a federal statute passed by both the House and Senate to the President for signature before it becomes law.
- **President of the United States:** The head of state and head of government who directs the executive branch and serves as the commander-in-chief of the Armed Forces.

- **Primary:** A selective mechanism by which members of a political party express their preference in the selection of the party's candidates for public office. For example, both the Democratic and Republican parties have Primaries for President.
- **Private Law:** The set of laws that governs the relationship of private citizens with each other. Examples include contract law, tort law, and property law.
- **Probate Court:** A court with jurisdiction over matters relating to guardianships, wills, trusts, and estates.
- **Procedural Criminal Law:** The body of law that regulates the ways in which state actors such as prosecutors, police officers, and judges are permitted to exercise their authority when enforcing the substantive criminal law.
- **Procedural History and Posture:** The story of a case's encounter with the law up to the present case.
- **Procedural Law:** The law that governs how to make use of the legal system, including how to make and enforce laws. This is law's "grammar."
- **Prosecutor:** The attorney who represents the state in a criminal proceeding by filing charges and presenting evidence against the person accused of committing a crime.
- **Public Law Number:** The number assigned to a published slip law; the first number represents the number of the Congress that passed the law and the second represents the chronological order in which the law was passed.
- **Public Law:** The set of laws that governs the relationship between citizens and their government. This includes constitutional law, administrative law, and much of criminal law.
- **Public Policy:** An argument appealing to what is right, just, and promotes the public good. Public policy arguments can be made in relation to what goals should be promoted through statutes or regulation, or as a basis for determining when courts should exercise the use of judicial power. One common usage of the phrase is that a contract would not be enforced because it is "contrary to public policy." (Note that this term's meaning is more contextual than many others we define here.)
- **Punitive Damages:** A special remedy that is sometimes granted to victims of highly culpable torts involving "willful or wanton" misconduct, and that consists of a payment that goes beyond compensation for the victim's losses.
- **Punitive Damages:** Damages awards above and beyond what is required to compensate the victim.

- **Purpose or Policy of the Statute:** What Congress is trying to get at in a Statute. Since Congress uses words to express a policy decision or set of policy instructions, this method of statutory interpretation involves looking at which interpretation better serves the policy of the statute.
- **Purposivism:** The other main school of thought on how to use the canons of construction. Purposivists believe statutory interpretation should seek to achieve the broader purposes of a statute. Purposivists believe the words chosen by Congress are imperfect, and if the precise words chosen don't align well with the policies, then the words should bend to the policies, not vice versa.
- **Real Property:** Land and anything growing on, built on, or attached to it (such as buildings).
- **Reconstruction Amendments:** Three constitutional amendments enacted in the Reconstruction Period after the Civil War. The 13th Amendment: The first Reconstruction Amendment to the Constitution prohibiting slavery. The 14th Amendment: The second Reconstruction Amendment to the Constitution stating that no state in the union could deprive anybody of due process of law or the equal protection of the laws. The 15th Amendment: The third Reconstruction Amendment to the Constitution stating that no state could abridge anybody's right to vote on the basis of race.
- **Reconstruction Period:** The post-Civil War period (1865-1877) which marked the end of slavery, the rebuilding of the South, and the passing of the Reconstruction Amendments.
- **Regulation:** A rule issued by a government agency that has the force of law. Sometimes the word "regulation" or "regulate" is also used more informally by lawyers to refer to governance. For example, "how should we regulate autonomous vehicles?"
- **Relief Sought:** The remedy the parties want in a case.
- **Remand:** The case is sent back to the court below for further action.
- **Remedies:** The body of law regarding the kinds of relief a litigant seeks from the court. The two most common forms of remedies are damages (when the defendant pays money to the plaintiff) and an injunction (when the defendant does, or refrains from doing, a specific action).
- **Remedy:** The court-ordered relief to which a successful tort plaintiff is entitled; although the typical remedy in tort cases is compensatory damages, some tort plaintiffs may obtain other remedies, including injunctions and punitive damages.
- **Respondent:** The party against whom a petition is filed. In the Supreme Court, this is typically the party who won the case in the court below and seeks to defend the judgment.
- **Retention Election:** A periodic process held at the same time as a general election, in which voters decide whether a state judge will remain in office.

- **Retributive Theory of Punishment:** A theory that seeks to justify the state’s decision to punish someone by appealing to the moral blameworthiness of the offender.
- **Reverse:** A disposition in which a court of appeals or supreme court overturns the judgment or ruling below, i.e., declares that the decision below was wrong.
- **Right to Exclude:** One of the main rights typically associated with ownership. It authorizes owners to prevent others from accessing, using, or claiming property and to control the terms on which others may access or use it.
- **Risk Averse:** A dislike for bearing risk or a preference for sure outcomes. For example, given the choice between \$5 guaranteed or a 50/50 shot at \$10, the risk averse choice would be to take the \$5.
- **Rule 68 Offer:** An offer made under Rule 68 of the Federal Rules of Civil Procedure, which allows one party (most often the defendant) to make a special “offer of judgment” up to fourteen days before a trial to another party (most often the plaintiff). If that party (e.g., the plaintiff) rejects the offer and then loses at trial, that party will be held responsible for the other party’s (e.g., the defendant’s) costs incurred after the offer was made. This rule creates an incentive for a party to accept a reasonable settlement offer.
- **Rule of Lenity:** A substantive canon that tells us that if a criminal statute is ambiguous – if there are two possible meanings – the judge should pick the one that favors the criminal defendant, that is, the more lenient one.
- **Sentence:** The punishment imposed by the judge following a judgment of conviction. Criminal sentences come in various forms, including incarceration, probation, fines, or the death penalty.
- **Separation of powers (also called “Checks and Balances”):** The division of the three branches of the federal government – the legislative, judicial, and executive powers. The underlying idea of this constitutional design is that the competition for authority among the three branches will discourage any one from supremacy or tyranny.
- **Service of Process:** The process of providing one’s complaint to the other side, the defendant(s).
- **Session Laws:** The booklet containing published statutes, bound chronologically by Congressional session.
- **Settlement:** An agreement that ends a civil-litigation dispute, for example, ending a lawsuit out-of-court by the defendant paying money to the plaintiff.
- **Seventh Amendment:** The amendment of the U.S. Constitution that provides a right in federal court to Civil Jury Trial in some instances.



- **Shepardizing:** Determining what other cases have overruled, distinguished, or otherwise changed our understanding of a case. The term comes from leaflets indicating updates to cases that were first printed in the late 1800s by Frank Shepard.
- **Simple Resolution:** A legislative measure passed by either the Senate or the House of Representatives (but not the other body) and does not require the approval of the President. A simple resolution does not have the force of law.
- **Slip Law:** The statute by itself on a single sheet or in pamphlet form before it is included into session laws.
- **Slippery Slope:** An argument form where the arguer suggests that if a particular step is taken now, it will inevitably lead to a very bad unwanted consequence later on.
- **Sovereign:** A person or institution habitually obeyed in a well-defined territory, but who or which does not habitually obey any other person or institution.
- **Standard of Review:** The amount of deference given by an appellate court in reviewing the decision of a lower court. The standard of review that a court applies depends on the context of the case, the nature of the factual or legal issue being appealed, and the judicial body that made the decision.
- **Stare Decisis:** A Latin expression meaning “to stand by things decided.” *Stare decisis* is a principle that ordinarily requires judges to apply the reasoning from earlier decisions (precedents) so that later cases reach the same result as similar earlier cases decided by the same court or a superior court.
- **“Stat.” Citation:** Citation for the Statutes at Large.
- **State Action Doctrine:** The constitutional law principle that the Constitution applies only to state action toward individuals, not actions between individuals where there is no state involvement.
- **Statement of Jurisdiction:** A part of the complaint that states the relevant jurisdiction, or the dividing line between various courts.
- **Statute of Limitations:** A law setting the maximum amount of time after an event within which civil legal proceedings may be initiated.
- **Statute:** A law passed by the legislative branch.
- **Statutes at Large:** The official U.S. government compilation of federal session laws; the official record of Acts of Congress and concurrent resolutions passed by the United States Congress.

- **Statutory interpretation:** The principles courts use in reading a statute and relating it to a particular issue or question.
- **Strict Liability:** A form of tort liability in which the injurer is held responsible for the victim's harms even though the injurer acted with due care. Strict liability is often applied to activities that are "ultra hazardous" or "abnormally dangerous." Additionally, in the United States, commercial sellers of products are often strictly liable for injuries and harms caused by their defective products, even if they made reasonable efforts to prevent such defects.
- **Substantive Canons:** Canons of construction that put a thumb on the scale of one interpretation or another in order to serve some broad, general policy that the legal system wants to promote.
- **Substantive Criminal Law:** The body of law that determines the types of misconduct that will expose a person to punishment at the hands of the state.
- **Substantive Law:** The law that governs how people are to behave. This is the "semantics" of law.
- **Tabling:** To postpone or suspend consideration of a pending motion or piece of legislation.
- **Textualism:** One of the two main schools of thought on how to use the canons of construction. Textualists emphasize that Congress picks its words carefully to express its policies and that those words presumptively express what Congress meant to express.
- **The American Rule:** The standard rule for civil litigation costs in the United States, whereby each party to a lawsuit typically pays her own attorney's fees.
- **The Canons (Maxims) of Construction:** The legal system's set of rules that judges use to help sort out what a statute means or what to do when a statute is ambiguous or doesn't make sense.
- **The English Rule:** The standard rule for civil litigation costs in England and Wales, where the losing party pays the winning party's attorney's fees. Also known as the "Loser-Pays System."
- **The Rule of Recognition:** A social rule that specifies what counts as a law and what does not. Associated with HLA Hart. Hart used the Rule of Recognition to replace the idea of the "sovereign" in his formulation of legal positivism.
- **Title IX:** A federal civil rights law enacted as part of the Education Amendments of 1972, to bar sex discrimination in educational institutions that receive federal funds.
- **Title:** Each large part of the U.S. Code, divided by subject matter.

- **Tort Law:** The branch of law relating to civil (as opposed to criminal) wrongful acts or omissions. Torts give rise to a civil action or private lawsuit.
- **Tortfeasor:** One who commits a tort.
- **Torts:** Acts or omissions that the law designates as wrongful and injurious, that give rise to civil liability rather than criminal punishment, and whose wrongfulness is not determined by the terms of an agreement.
- **Transactional Lawyer:** A lawyer that works on deals, including contracts, mergers, joint ventures, and venture capital, and advises clients about whether a given deal will be legal, and how it might best be designed and accomplished.
- **Tribal Law:** Law created by a tribal government that applies to tribal members and territories. There are over 500 tribal governments recognized in the U.S.
- **U.S. Code:** A compendium of federal laws.
- **U.S. Supreme Court:** The highest federal court. The Supreme Court has final appellate jurisdiction over all federal court decisions and also hears state court cases that turn on issues of federal law.
- **Vacate:** Similar to “reverse.”
- **Verdict:** The jury’s decision.
- **Veto:** When the president refuses to sign a bill presented for signature but returns the bill with reasons not to sign it.
- **Victim:** A person who suffers an injury by virtue of another’s wrongful conduct.