

Glossary

Common Latin Words and Phrases Encountered in the Law

A FORTIORI: Because one fact exists or has been proven, therefore a second fact that is related to the first fact must also exist.

A PRIORI: From the cause to the effect. A term of logic used to denote that when one generally accepted truth is shown to be a cause, another particular effect must necessarily follow.

AB INITIO: From the beginning; a condition which has existed throughout, as in a marriage which was void ab initio.

ACTUS REUS: The wrongful act; in criminal law, such action sufficient to trigger criminal liability.

AD VALOREM: According to value; an ad valorem tax is imposed upon an item located within the taxing jurisdiction calculated by the value of such item.

AMICUS CURIAE: Friend of the court. Its most common usage takes the form of an amicus curiae brief, filed by a person who is not a party to an action but is nonetheless allowed to offer an argument supporting his legal interests.

ARGUENDO: In arguing. A statement, possibly hypothetical, made for the purpose of argument, is one made arguendo.

BILL QUIA TIMET: A bill to quiet title (establish ownership) to real property.

BONA FIDE: True, honest, or genuine. May refer to a person's legal position based on good faith or lacking notice of fraud (such as a bona fide purchaser for value) or to the authenticity of a particular document (such as a bona fide last will and testament).

CAUSA MORTIS: With approaching death in mind. A gift causa mortis is a gift given by a party who feels certain that death is imminent.

CAVEAT EMPTOR: Let the buyer beware. This maxim is reflected in the rule of law that a buyer purchases at his own risk because it is his responsibility to examine, judge, test, and otherwise inspect what he is buying.

CERTIORARI: A writ of review. Petitions for review of a case by the United States Supreme Court are most often done by means of a writ of certiorari.

CONTRA: On the other hand. Opposite. Contrary to.

CORAM NOBIS: Before us; writs of error directed to the court that originally rendered the judgment.

CORAM VOBIS: Before you; writs of error directed by an appellate court to a lower court to correct a factual error.

CORPUS DELICTI: The body of the crime; the requisite elements of a crime amounting to objective proof that a crime has been committed.

CUM TESTAMENTO ANNEXO, ADMINISTRATOR (ADMINISTRATOR C.T.A.): With will annexed; an administrator c.t.a. settles an estate pursuant to a will in which he is not appointed.

DE BONIS NON, ADMINISTRATOR (ADMINISTRATOR D.B.N.): Of goods not administered; an administrator d.b.n. settles a partially settled estate.

DE FACTO: In fact; in reality; actually. Existing in fact but not officially approved or engendered.

DE JURE: By right; lawful. Describes a condition that is legitimate "as a matter of law," in contrast to the term "de facto," which connotes something existing in fact but not legally sanctioned or authorized. For example, de facto segregation refers to segregation brought about by housing patterns, etc., whereas de jure segregation refers to segregation created by law.

DE MINIMIS: Of minimal importance; insignificant; a trifle; not worth bothering about.

DE NOVO: Anew; a second time; afresh. A trial de novo is a new trial held at the appellate level as if the case originated there and the trial at a lower level had not taken place.

DICTA: Generally used as an abbreviated form of obiter dicta, a term describing those portions of a judicial opinion incidental or not necessary to resolution of the specific question before the court. Such nonessential statements and remarks are not considered to be binding precedent.

DUCES TECUM: Refers to a particular type of writ or subpoena requesting a party or organization to produce certain documents in their possession.

EN BANC: Full bench. Where a court sits with all justices present rather than the usual quorum.

EX PARTE: For one side or one party only. An ex parte proceeding is one undertaken for the benefit of only one party, without notice to, or an appearance by, an adverse party.

EX POST FACTO: After the fact. An ex post facto law is a law that retroactively changes the consequences of a prior act.

EX REL.: Abbreviated form of the term "ex relatione," meaning upon relation or information. When the state brings an action in which it has no interest against an individual at the instigation of one who has a private interest in the matter.

FORUM NON CONVENIENS: Inconvenient forum. Although a court may have jurisdiction over the case, the action should be tried in a more conveniently located court, one to which parties and witnesses may more easily travel, for example.

GUARDIAN AD LITEM: A guardian of an infant as to litigation, appointed to represent the infant and pursue his/her rights.

HABEAS CORPUS: You have the body. The modern writ of habeas corpus is a writ directing that a person (body)

being detained (such as a prisoner) be brought before the court so that the legality of his detention can be judicially ascertained.

IN CAMERA: In private, in chambers. When a hearing is held before a judge in his chambers or when all spectators are excluded from the courtroom.

IN FORMA PAUPERIS: In the manner of a pauper. A party who proceeds in forma pauperis because of his poverty is one who is allowed to bring suit without liability for costs.

INFRA: Below, under. A word referring the reader to a later part of a book. (The opposite of supra.)

IN LOCO PARENTIS: In the place of a parent.

IN PARI DELICTO: Equally wrong; a court of equity will not grant requested relief to an applicant who is in pari delicto, or as much at fault in the transactions giving rise to the controversy as is the opponent of the applicant.

IN PARI MATERIA: On like subject matter or upon the same matter. Statutes relating to the same person or things are said to be in pari materia. It is a general rule of statutory construction that such statutes should be construed together, i.e., looked at as if they together constituted one law.

IN PERSONAM: Against the person. Jurisdiction over the person of an individual.

IN RE: In the matter of. Used to designate a proceeding involving an estate or other property.

IN REM: A term that signifies an action against the res, or thing. An action in rem is basically one that is taken directly against property, as distinguished from an action in personam, i.e., against the person.

INTER ALIA: Among other things. Used to show that the whole of a statement, pleading, list, statute, etc., has not been set forth in its entirety.

INTER PARTES: Between the parties. May refer to contracts, conveyances or other transactions having legal significance.

INTER VIVOS: Between the living. An inter vivos gift is a gift made by a living grantor, as distinguished from bequests contained in a will, which pass upon the death of the testator.

IPSO FACTO: By the mere fact itself.

JUS: Law or the entire body of law.

LEX LOCI: The law of the place; the notion that the rights of parties to a legal proceeding are governed by the law of the place where those rights arose.

MALUM IN SE: Evil or wrong in and of itself; inherently wrong. This term describes an act that is wrong by its very nature, as opposed to one which would not be wrong but for the fact that there is a specific legal prohibition against it (malum prohibitum).

MALUM PROHIBITUM: Wrong because prohibited, but not inherently evil. Used to describe something that is wrong because it is expressly forbidden by law but that is not in and of itself evil, e.g., speeding.

MANDAMUS: We command. A writ directing an official to take a certain action.

MENS REA: A guilty mind; a criminal intent. A term used to signify the mental state that accompanies a crime or other prohibited act. Some crimes require only a general mens rea (general intent to do the prohibited act), but others, like assault with intent to murder, require the existence of a specific mens rea.

MODUS OPERANDI: Method of operating; generally refers to the manner or style of a criminal in committing crimes, admissible in appropriate cases as evidence of the identity of a defendant.

NEXUS: A connection to.

NISI PRIUS: A court of first impression. A nisi prius court is one where issues of fact are tried before a judge or jury.

N.O.V. (NON OBSTANTE VEREDICTO): Notwithstanding the verdict. A judgment n.o.v. is a judgment given in favor of one party despite the fact that a verdict was returned in favor of the other party, the justification being that the verdict either had no reasonable support in fact or was contrary to law.

NUNC PRO TUNC: Now for then. This phrase refers to actions that may be taken and will then have full retroactive effect.

PENDENTE LITE: Pending the suit; pending litigation under way.

PER CAPITA: By head; beneficiaries of an estate, if they take in equal shares, take per capita.

PER CURIAM: By the court; signifies an opinion ostensibly written "by the whole court" and with no identified author.

PER SE: By itself, in itself; inherently.

PER STIRPES: By representation. Used primarily in the law of wills to describe the method of distribution where a person, generally because of death, is unable to take that which is left to him by the will of another, and therefore his heirs divide such property between them rather than take under the will individually.

PRIMA FACIE: On its face, at first sight. A prima facie case is one that is sufficient on its face, meaning that the evidence supporting it is adequate to establish the case until contradicted or overcome by other evidence.

PRO TANTO: For so much; as far as it goes. Often used in eminent domain cases when a property owner receives partial payment for his land without prejudice to his right to bring suit for the full amount he claims his land to be worth.

QUANTUM MERUIT: As much as he deserves. Refers to recovery based on the doctrine of unjust enrichment in those cases in which a party has rendered valuable services or furnished materials that were accepted and enjoyed by another under circumstances that would reasonably notify the recipient that the rendering party expected to be paid. In essence, the law implies a contract to pay the reasonable value of the services or materials furnished.

QUASI: Almost like; as if; nearly. This term is essentially used to signify that one subject or thing is almost

analogous to another but that material differences between them do exist. For example, a quasi-criminal proceeding is one that is not strictly criminal but shares enough of the same characteristics to require some of the same safeguards (e.g., procedural due process must be followed in a parole hearing).

QUID PRO QUO: Something for something. In contract law, the consideration, something of value, passed between the parties to render the contract binding.

RES GESTAE: Things done; in evidence law, this principle justifies the admission of a statement that would otherwise be hearsay when it is made so closely to the event in question as to be said to be a part of it, or with such spontaneity as not to have the possibility of falsehood.

RES IPSA LOQUITUR: The thing speaks for itself. This doctrine gives rise to a rebuttable presumption of negligence when the instrumentality causing the injury was within the exclusive control of the defendant, and the injury was one that does not normally occur unless a person has been negligent.

RES JUDICATA: A matter adjudged. Doctrine which provides that once a court of competent jurisdiction has rendered a final judgment or decree on the merits, that judgment or decree is conclusive upon the parties to the case and prevents them from engaging in any other litigation on the points and issues determined therein.

RESPONDEAT SUPERIOR: Let the master reply. This doctrine holds the master liable for the wrongful acts of his servant (or the principal for his agent) in those cases in which the servant (or agent) was acting within the scope of his authority at the time of the injury.

STARE DECISIS: To stand by or adhere to that which has been decided. The common law doctrine of stare decisis attempts to give security and certainty to the law by

following the policy that once a principle of law as applicable to a certain set of facts has been set forth in a decision, it forms a precedent which will subsequently be followed, even though a different decision might be made were it the first time the question had arisen. Of course, stare decisis is not an inviolable principle and is departed from in instances where there is good cause (e.g., considerations of public policy led the Supreme Court to disregard prior decisions sanctioning segregation).

SUPRA: Above. A word referring a reader to an earlier part of a book.

ULTRA VIRES: Beyond the power. This phrase is most commonly used to refer to actions taken by a corporation that are beyond the power or legal authority of the corporation.

Addendum of French Derivatives

IN PAIS: Not pursuant to legal proceedings.

CHATTEL: Tangible personal property.

CY PRES: Doctrine permitting courts to apply trust funds to purposes not expressed in the trust but necessary to carry out the settlor's intent.

PER AUTRE VIE: For another's life; during another's life. In property law, an estate may be granted that will terminate upon the death of someone other than the grantee.

PROFIT A PRENDRE: A license to remove minerals or other produce from land.

VOIR DIRE: Process of questioning jurors as to their predispositions about the case or parties to a proceeding in order to identify those jurors displaying bias or prejudice.