BUSINESS LAW – GLOSSARY

Acceptance - an agreement to an offer resulting in a contract.

Accord and satisfaction - an agreement made and executed in satisfaction of the rights one has from a previous contract.

Agent - the party appointed by the principal to enter into a contract with a third party on behalf of the principal.

Alien corporation – one that is incorporated in a foreign country.

Answer – official document detailing a defendant's defense.

Antitrust - laws which seek to promote competition among businesses.

Apparent authority - the authority an agent is believed by third parties to have because of the behavior of the principal.

Appeal – request to a higher court to review a lower court's decision.

Appellate courts - courts hearing cases appealed from a lower court.

Arraignment – charging a person with a crime and asking for that person's plea.

Arrest – to take into police custody.

Assignee - the party to whom the assignment is made.

Assignment - a means whereby one party in a contract conveys rights to another person, who is not a party to the original contract.

Assignor - the party making the assignment.

Authority – power to act for someone else.

Bailee - the party who acquires possession, but not the title, of personal property by one party to another, under agreement.

Bailment - the transfer of possession, but not the title of personal property by one party to another, under agreement.

Bailor - the party who gives up possession, but not the title, of personal property in a bailment.
Bear – a person in possession of an instrument.

Bearer paper – commercial paper payable to bearer; i.e. to the person having possession of such.

Beneficiary – recipient of the proceeds of a life insurance policy: one who inherits property as specified in a will.

Bilateral contract - a contract which consists of mutual promises to perform some future acts.

Bill of lading - the contract existing between the consignor and the carrier.

Bill of sale - a document of conveyance which provides written evidence of one's title to tangible personal property.

Blank endorsement - having no words other than the signature of the endorser.

Board of directors - a body of persons elected by the stockholders to define and establish corporate policy.

Booking – administrative step taken after an arrested person is brought to police station, which involves entry of the person's name, the crime for which the arrest was made, and other relevant facts on the police "blotter," and which may also include photographing, fingerprinting and the like.

Breach of contract - a situation in which one of the parties to a contract fails or otherwise refuses to perform the obligations established in that contract.

Business law - those rules of conduct prescribed by government and its agencies in regulating business transactions.

Cashier's check - a check drawn on a bank's own funds and signed by a responsible bank official.

Certificate of deposit - the acknowledgment by a bank of a receipt of money with an agreement of repayment.

Certified check – a check for which the bank assures that the drawer has sufficient funds to make payment.

Check - an order by a depositor on the bank to pay a sum of money to a payee.

Civil law - the body of law concerned with private or purely personal rights.

Close (closely held) corporation – a designation which applies to a corporation in which outstanding share of stock and managerial control are held by a limited number of people (often
members of the same family).

**Commercial paper (negotiable instrument)** - a writing drawn in a special form which can be transferred from person to person as a substitute for money or as an instrument of credit.

**Common law** - customs which have become recognized by the courts as binding on the community.

**Compensatory damages** - an award paid to the injured party to cover the exact amount of their loss, but no more.

**Complaint (petition)** - the written request which initiates a civil law suit.

**Consideration** - that which the promisor demands and receives as the price for a promise.

**Consignee** - one to whom goods are shipped by common carrier.

**Consignor** - one who ships goods by common carrier.

**Contract** - an agreement between two or more competent persons which is enforceable by law.

**Contract to sell** - a seller agrees to transfer title to goods for a consideration (price) at a future time.

**Contractual capacity** - the necessity that the parties desiring to enter into contracts meet all requirements.

**Corporation** - a business entity created by statutory law and owned by individuals known as stockholders.

**Counteroffer** - an intended acceptance which changes or qualifies an original offer and in effect, rejects that offer and becomes a new offer.

**Creditor beneficiary** - a person who is not a party to a contract to whom the promisor of a contract owes an obligation or duty.

**Crime** - an offense which is injurious to society as a whole.

**Criminal law** - laws dealing with crimes and the punishment of wrongdoers.

**Defendant** - the person against whom legal action is brought.

**Disaffirmance** - the repudiation of, or election to avoid, a voidable contract.
**Discharge** - termination of a contract by performance, agreement, impossibility, acceptance of breach, or operation of law.

**Discovery** – pretrial steps taken to learn the details of the case.

**Domestic corporation** – operates in the state that granted the charter.

**Donee beneficiary** - a third party beneficiary to whom no legal duty is owed and performance is a gift.

**Draft** - a written order signed by one person requiring the person to whom addressed to pay a particular sum of money, to order or to bearer, on demand or at a certain time.

**Drawee** - the person, company or financial institution ordered to pay a draft.

**Drawer** - the person who executes any draft.

**Duress** - a means of removing one's free will, obtaining consent by means of a threat to do harm to the person, his family, his property, or his earning power.

**Employee** - the person hired to perform work and who is obligated both as to the work to be done and as to the manner in which it is to be done.

**Employer** - the party who employs employees to do certain work.

**Executed contract** - those contracts in which the terms have been fulfilled.

**Execution** - the carrying out or completion of some task.

**Executory contract** - those contracts in which the terms have not been completely executed or fulfilled by the parties.

**Existing goods** - those goods which are, at the time of the contract, in existence and owned by the seller.

**Express authority** - the authority of an agent, stated in the document or agreement creating the agency.

**Express contract** - a contract in which the parties express their intentions, either orally or in writing, at the time of the agreement.

**Express warranties** - the actual and definite statement of a seller, either orally or in writing, at the time of the sale.

**Felony** - a more serious criminal offense that is punishable by death or by imprisonment in a
penitentiary for more than one year.

**Fiduciary** - a relationship of trust and confidence, such as that which exists between partners in a partnership.

**Foreign corporation** – designation that applies when a corporation operates in any state other than where it is chartered.

**Formal contract** - those contracts which must be in special form or produced in a certain way, such as under seal.

**Fraud** - the intentional or reckless false statement of a material fact, upon which the injured party relied, which induced the injured party to enter into a contract, to his or her detriment.

**Future goods** - those goods which are not in existence at the time a contract is agreed to.

**General agent** - one who is authorized to execute the principal’s business of a particular kind, or all the principal’s business at a particular place, if not all of one kind.

**General partner** - those individuals actively and openly engaged in the business and held to everyone as a partner.

**Goods** - movable tangible personal property.

**Holder** – one in possession of commercial paper.

**Identified goods** - the goods specified by the buyer and seller.

**Implied authority** - an agent’s authority to do things not specifically authorized in order to carry out express authority.

**Implied contract** - one in which the terms of the contract are implied by acts or conduct of the parties.

**Implied warranties** - warranties imposed by law, arising automatically because the sale has been made.

**Independent contractor** - one who contracts to perform certain tasks for a set fee, but who is independent of the control of the contracting party as to a means by which the contract is executed, except for specifications established in the contract.

**Endorsee** - a person who becomes the holder of a negotiable instrument by endorsement, which names him or her as the person to whom the instrument is negotiated.

**Endorsement** - the signature or statement of purpose by the owner on the back of a negotiable
instrument, which indicates the future control of the instrument.

**Endorser** - person who writes his or her name on back of an instrument.

**Injunction** - a permanent judicial order or decree forbidding the performance of a certain act.

**Intangible personal property** - evidences of ownership of personal property, such as stock of corporations, checks and copyrights.

**Judgment** - a decision of a court of law.

**Law** - those rules of conduct commanding what is right and prohibiting what is wrong.

**Limited liability company** – newest form of business ownership recognized in the U.S.; combines features of both the corporation and partnership.

**Limited partner** - partners who have their liability for the firm's debts limited to the amount of their investment.

**Liquidated damages** - the amount of the damages stipulated in a contract to be paid in the event one party breaches the contract.

**Maker** - the person who executes a promissory note.

**Malpractice** - a breach of contract by a professional person; failure to perform a professional service with the ability and care generally exercised by others in the profession.

**Merchant** - a person who deals in goods of the kind, or otherwise by occupation purports to have knowledge or skill peculiar to the practices or goods involved in the transaction.

**Minor** - those persons under legal age; by most states (but not all), the standard is under the age of eighteen.

**Misdemeanor** - a less serious criminal offense, generally punishable by fine and/or imprisonment of less than one year.

**Misrepresentation** – stating an untrue fact.

**Necessaries** - items, required or proper and useful, for sustaining a human being at an appropriate living standard (examples: food, clothing and shelter).

**Negligence** - failure to exercise ordinary care; omission to do something which a reasonable prudent person would do under ordinary circumstances or the doing of something which a reasonable and prudent would not do; the lack of due care (a breach of a legal duty to act carefully resulting in injury to another or damage to another's property).
**Negotiable instrument (commercial paper)** - a writing drawn in a special form which can be transferred from person to person as a substitute for money or as an instrument of credit.

**Negotiation** - the act of transferring ownership of a negotiable instrument to another party.

**Nominal damages** - a token award to symbolize vindication of the wrong done to the plaintiff, generally the award is $1.00.

**Novation** - the substitution of a new party for one of the original parties to a contract, such that the prior contract terminates and a new one substitutes for it.

**Offer** - a proposal to make a contract.

**Offeree** - the person to whom an offer is made.

**Offeror** - the party who initiates, or makes, an offer.

**Order paper** - commercial paper made payable "to the order of" some named party; the word "order" or its equivalent must be used.

**Ordinance** - law enacted by a municipality.

**Partnership** - the voluntary association of two or more people who have combined their resources to carry on as co-owners of a lawful enterprise for their joint profit.

**Payee** - the party to whom any negotiable instrument is made payable.

**Personal property** - all property which is not real property.

**Petition (complaint)** - a written request initiating a civil suit.

**Plaintiff** - the individual who initiates a civil action.

**Price** - the consideration stipulated by contract, generally expressed in money or money's worth.

**Principal** - a party who appoints a second party to serve as an agent.

**Private corporation** - a corporation formed by individuals to carry out some non-governmental function.

**Process (summons)** - a notice given to a defendant, attaching the complaint and stating a time frame in which an answer must be filed or an appearance made.
Promissory estoppel - an equitable doctrine that prevents the promisor from revoking the promise when the promisee justifiably acts in reliance upon the promise to his detriment.

Promissory note - a negotiable instrument containing a promise to pay.

Public corporation - a corporation formed to carry out government functions.

Punitive damages - an award paid to the plaintiff in order to punish the defendant, not to compensate the plaintiff.

Qualified endorsement - an endorsement which limits the liability of the endorser.

Ratification - conforming an act which was executed without authority or an act which was voidable.

Real property - land and those objects permanently attached to land.

Recission - canceling, annulling, avoiding.

Rejection - refusal to accept.

Restrictive endorsement - an endorsement which prevents the use of the instrument for anything except the stated use.

Revocation - the annulment or cancellation of an instrument, act or promise by one doing or making the offer.

Sale - the transfer of title to goods from the seller to the buyer for a consideration called the price.

Service contracts - the contracting of services rather than goods.

Shareholders (stockholders) - those having title to one or more shares of stock in a corporation; combined, they represent ownership of the corporation.

Sherman antitrust act - federal legislation intended to promote competition among businesses by prohibiting restraint of trade.

Silent partner - an individual who takes no active part in the management of a partnership, but has capital invested in the business.

Simple contract – any contract other than a formal contract, whether written, oral or implied.

Sole proprietorship - a business owned by one person who is subject to claims of creditors.
**Special agent** - one authorized by the principal to execute specific act(s).

**Special endorsement** - an endorsement which designates the particular person to whom payment is to be made.

**Specific performance** - a contract remedy by which the court requires the breaching party to perform the contract.

**Stare decisis** - the principle that the decision of a higher court should serve as a guide or precedent and control the decision of a similar case in the future.

**Statute of frauds** - a statute originally enacted by English Parliament, and now enacted in some form in all the American states, listing certain types of contracts which could only be enforced if in written form.

**Statute of limitations** - a law that restricts the period of time within which an action may be brought to court.

**Statutes** - laws which are enacted by legislative bodies.

**Stockholders (shareholders)** - those having title to one or more shares of stock in a corporation; combined, they represent ownership of the corporation.

**Subchapter S corporation** – is a creation of the tax codes; shareholders elect to be taxed as a partnership (no double taxation) without losing corporation status.

**Summons (process)** - a notice given to a defendant, attaching the complaint and stating a time frame in which an answer must be filed or an appearance made.

**Third party beneficiary** - person not party to a contract, but whom parties intended to benefit.

**Tort** - a private or civil wrong, other than by breach of contract, for which there may be action for damages.

**Trial court** - court which conducts the original trial and renders its decision.

**Undue influence** - improper influence that is asserted by one dominant person over another, without the threat of harm.
**Unenforceable contract** - an agreement which at the current time is not enforceable by law.

**Uniform commercial code** - recognized as the most important statute in business law, it includes provisions which regulate certain sales of goods and negotiable instruments.

**Unilateral contract** - a contract formed when an act is done in consideration for a promise.

**Usurious** - exceeding the maximum rate of interest which may be charged on loans.

**Valid contract** - a contract which will be enforced by the court.

**Void contract** - an agreement of no legal effect.

**Voidable contract** - a contract which would be an enforceable agreement, but due to circumstances, may be set aside by one of the parties.

**Warranties** - guarantees made by a seller that an article, good or service will conform to a certain standard or will operate in a certain manner.