

Index

- acceptance in contract law 113
- acquisition of property 61
- Administrative Committee of the Federal Register (ACFR) 49
- Administrative Law Judges (ALJs) 200
- administrative laws 11–12
 - rules in 37
- advisory opinions 46–47
- Age Discrimination in Employment Act of 1967 (ADEA) 141, 150, 175, 210
- agency law 11
- Amendments to the Clean Air Act of 1990 85
- American Federation of Labor and Congress of Industrial Organization (AFL-CIO) 150
- American Revolution 18
- Americans with Disabilities Act of 1990 (ADA) 74–76, 141, 150, 175, 210–215
 - Department of Justice (DOJ) priority list 76–77
 - expectations on medical examinations 76
 - federal enforcement of 76–77
 - individual with a disability, defined 74
 - protection by 75
 - reasonable accommodations 75–76
- answer document 28
- appeals 38–39
 - de novo* appeal 38
 - “on the record” appeal 38–39
 - second appeal 38
- appellate courts 16, 30, 42
- appellate decisions 40
- architectural design services 163–165
- Architectural Tax Deduction 76
- architectural work, copyright protection of 21
- Architectural Works Copyright Protection Act (AWCPA) 21
- arraignment process 131–133
- “As is” clause 122
- attorney general 34–35
- attractive nuisance 103
- at-will employment 141–142
- Automobile Workers v. Johnson Controls, Inc.* 199
- bail 131
- bailee 62–63
- bailments 63
- bailor 62–63
- balance of power 18
- bench trial 35–36
- beneficial ownership 64
- Best Value selection strategy 160
- beyond a reasonable doubt* standard 29
- bid bonds 160, 236
- Bill of Rights 7, 42, 128
- black letter rule of law 6
- blanket rule 53
- breach of contract, defenses to 118–120
 - distrain and distress for rent, remedy of 123
 - remedies 124
- British slave trade 15
- Brooks Act of 1972 164
- brownfield sites 84
- bundle of property rights 64
- bundle of rights 61
 - land owner’s 61
- business risk 221
- California Occupational Safety and Health Administration (Cal/OSHA) 135
- capital crime 132
- Castle Doctrine 202–203

- certified construction manager (CCM) 157
- challenging a law 47
- circuits 23–25
- City of Chicago, et al. v. Environmental Defense Fund et al.* 511 US 328 (1994) 41
- civil disputes 36
- civil lawsuits 127
- civil procedures 50–51
- Civil Rights Act of 1964 74, 150, 175, 199, 210
- Civil Rights Act of 1991 175
- civil trial standard 130
- Clean Air Act 1990 87
- clean hands doctrine 118
- Code of Federal Regulations 37, 49
- Code of Laws of the United States of America 36
- codified law 48
- comma placement in contract language 115
- commencement of a lawsuit 27–28
- common law 12–13, 19, 37–38, 81
 - duty of the landlord 73
 - recording 39–42
- community members
 - as jurors 35
 - as victim’s advocates 36
- compensatory damages 105–106
- competent parties in contract law 113
- complaint document 27–28
- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) 85, 87
- comprehensive ownership right 62
- conflict avoidance 225–230
- consideration in contract law 113
- Construction Management Association of America (CMAA) 156
- construction management (CM) 155–157
 - agent 162
 - architectural design services 163–165
 - building information management 162
 - design bid build (DBB) 160–161
 - design build (DB) relationship 161
 - evidence laws 165–169
 - general condition document 163
 - integrated project delivery system (IPD) 162–163
 - multi-party agreement 163
 - project delivery system (PDS) 157–159
 - at-risk relationship 161–162
 - standard contract between an architect and an owner 160
 - surety bonds 160
 - transition form 162
- constructive eviction 123
- contract law
 - acceptance, element of 113
 - autonomy to contracting parties 109–110
 - competent parties 113
 - consideration, element of 113
 - contract interpretation 115
 - contract language 115
 - contractual duties, discharging 118–120
 - defences to breach of contract 120
 - definition 109
 - crafting a contract 116–118
 - elements 112–113
 - environment contracts 110–112
 - legal subject matter, element of 113
 - offers 112–113
 - “specific terms govern over general terms” 116
 - theory of 108–109
 - unjust enrichment, issue of 114
- conveyance 68
- Copyright Act 19
 - 17 U.S.C. § 102(a)(5) 21
- copyright ownership 19
- counter claim 28
- court, notion of 16
- court-appointed attorney 35
- court-imposed agreement 114
- court-imposed contracts 114
- court’s constitutionality check 9
- covenant of fitness 74
- covenant of possession 74
- crime, methods for reducing 134–135
- criminal case 36
- criminal law 49

- criminal procedure 128–134
 - arraignment process 131–133
 - bail 131
 - investigations and accusations 129–131
 - trial progression 133
- Criminal Procedure and Evidence 21
- criminal procedure process 134
- criminal procedures 50–51
- criminal trial progression 133
- criminal trial standard 130
- cross-examination 132
- current law 48
- damages
 - compensatory 105–106
 - liquidated 119
 - nominal 106
 - punitive 106, 119
- Daubert v. Merrell Dow Pharmaceuticals, Inc.* 167
- Davis–Bacon Act 150
- decision
 - at federal trial level 25
 - modifications to 45
- “decision by the court” 13
- decision-maker 33
- decision of the court (court’s decision) 38
- decisions
 - appellate 40
- Declaration of Independence 7
- Declaration of Independence 59
- declarative statement 39
- decrees 37
- defendant 16, 35
- defendant’s inability to pay 35
- Defenders of Wildlife Organization 48
- de novo* appeal 38
- Department of Justice (DOJ) 76–77
- design-bid-build (DBB) 160–161
- design-bid-build relationship 161
- Diplock, Baron 108
- Diplock Courts 108
- direct concurrent ownership 65
- direct individual ownership 65
- discovered trespasser 103
- discovery 29
- disposition of property 61
- dispute resolution function of law 4, 6, 21–22
- dissenting opinion 40
- “doing business as” (or DBA) 121
- drafting a contract 116–118
- Drug-Free Workplace Act 150
- due process 50, 128, 130
- EEOC v. Convergys Customer Management Group Inc.* 212–213
- EEOC v. El Du Pont De Nemours & Co.* 214–215
- effective counseling 131
- EH Construction, LLC v. Delor Design Group, Inc.* 186–188
- ejusdem generis* 116
- Employee Retirement Income Security Act of 1974 (ERISA) 141, 210
- employment law
 - overview 141–144
- employment rights statutes 142
- enforce a statute 19
- entrustee 192
- entrustor 192
- Environmental Defense Fund (EDF) 41
- environmental justice 154–155
- environmental law
 - compliance statutes 85–86
 - complications with 80–81
 - environmental pollution prevention statutes 85
 - environmental waste clean-up 85
 - hazardous waste sites 155
 - historical perspective 80
 - prevention of pollution 85
 - remediation laws 85
 - role of regulators 81
 - scope of 83
 - sources of 81–86
- Environmental Protection Agency (EPA) 12, 41
- environmental violations, common 87–88
- Equal Pay Act of 1963 175
- equitable title 65

- estate, defined 66
- exculpatory clauses 122
- Executive Order 11246 150
- executive orders 10–11
 - primary use 37

- facilitator, law as a 5–6
- facility management
 - defined 174
 - human resource operations 175–177
 - leadership 191–193
 - operations 178–182
 - procurement 182
 - professionalism 186–191
- Facility Managers 6, 15, 22, 33, 60–61, 76–77
 - construction project delivery system (PDS) 157–159
 - day-to-day operations of 62
 - duty of care 102
 - environmental laws and 83–87
 - facility management and crime 134–138
 - liability of 97
 - motivations for using contracts 109
 - in organizations with unionized workers 149
 - personal property for 62–63
 - role and responsibilities 174, 196
- Fair Labor Standards Act of 1932 and 1938 141, 143, 150, 210
- fairness, doctrine of 101
- fair pay 142
- Family and Medical Leave Act of 1993 (FMLA) 141, 143, 210
- federal district jurisdiction 27
- Federal Employee Polygraph Protection Act 143
- Federal Insecticide, Fungicide, and Rodenticide Act 1972 87
- Federal Register publications system 49
- Federal Reporter 40
- federal republic 17
- Federal Rules of Appellate Procedure 51
- Federal Rules of Civil Procedure 50
- Federal Rules of Criminal Procedure (F.R.Crim.Pro.) 50, 128–129
- Federal Rules of Evidence 51–53
- Federal Water Pollution Control Act 1972 and 1977 86–87
- fee simple estate 66
- felony 132
- Fifth Club, Inc. v. Ramirez* 205–206
- forum shopping 17
- fraud, statutes of 114
- freehold estates 66
- Frye standards 167–168
- Frye v. United States* 166
- functions of law 4–6
 - dispute resolution function 4, 6
 - law as a by-product of governing citizens 6
 - law as a facilitator 5–6
 - law as regulator 5
 - US legal system 19–30
- “general acceptance” standard 166
- Genetic Information Nondiscrimination Act of 2008 (GINA) 175
- granting certiorari 42
- granting certiorari* 30
- Green v. Soule* 112

- Harness v. Churchmembers Life Insurance Co., Et Al.* 215–216
- health and safety management 197–201
- Health Care and Education Reconciliation Act (HCERA) 9
- hearsay rule 53–54
- Higgins v. Watervliet Turnpike Co.* 206
- Hobbs Act 150
- Howard v. Howard* 217

- idea, transformation to law 8
- illegal labor 144
- Immigration Reform and Control Act 150
- indemnification 122
- independent children’s advocates 36
- independent contractors 144–147
 - advantages and disadvantages of 145
 - characteristics of an employee and 145
- indirect ownership 65
- individual with a disability, defined 74
- ineffective counseling 131

- injured worker, protection for an 112
- insurance 230–237
- intangible personal property 62
- integrated project delivery system (IPD) 162–163
- intentional tort 92–94
- intermediate appellate court 42
- Internal Revenue Service (IRS) 144
- International Facility Management Association (IFMA) 79
- issue at hand 41

- janitorial contractor 117
- John Martin Co. v. Morse/Diesel, Inc.* 188
- joint and several liability 117
- joint property ownership 64
- joint tenants 65
- judge-made law. *see* common law
- judge's decision 13, 41–42
- jurisdiction in US court system 16, 25–30
 - federal court 26–27
 - payment dispute between a builder and a subcontractor, case example 25
- jurisprudence 3
- jury, concept of a 17–18
 - community members as jurors 35
- justiciability, issues of 45–46

- Khun Construction Company Ocean v. Coastal Consultants and Robert Waite* 189, 191
- Kratzer v. Rockwell Collins, Inc.* 214

- labor agreement provisions 150
- labor law 147–148
- Labor Management Relations Act of 1947 148
- Labor Management Reporting and Disclosure Act of 1959 (LMRDA) 148–149
- land-development conspiracies 59
- landlord 68, 74
- landlord/tenant relationship 69
- Landrum–Griffin Act 149
- Laukkanen v. Jewel Tea Co., Inc.* 183–184
- Law Library of Congress 49
- “law” of computer code 5

- law of torts 81
- lease 68
- leaseholds 67
- lease termination 123–124
- legal duties of the parties 68–69
- legal duty of care 72–74
- legal formalist 195
- legal ownership 64
- legal reasoning 4, 45
- legal research 43–44
 - definition 44
 - sources for 44
 - steps 44
- legal subject matter in contract law 113
- legal theories
 - advisory opinions 46–47
 - justiciability, issues of 45–46
 - materiality, concept of 45
 - mootness 47
 - ripeness 47
 - standing, issue of 47
 - stare decisis* 45
- legal transfer of personal property or real estate 60
- legislation 48–49
- liability exceptions, transfer of 146
- libel 94
- licensee 103
- liens 86
- life cycle of a lawsuit 27–30
 - commencement 27–28
 - post-trial phase 30
 - pre-trial phase 28–29
 - trial phase 29–30
- life estate 66–67
- Lim v. Interstate System Steel Division, Inc.* 193
- liquidated damages 119
- lost property 62
- Lujan v. Defenders of Wildlife* 48

- MacPherson v. Buick Motor Co.* 94–95
- management decisions 228
- Mapp v. Ohio* 129
- materiality, concept of 45
- matters of first impression 38
- Miranda v. Arizona* 129

- misdemeanor 132
- mislaid property 62
- modern leases 120
- mootness 47
- multi-volume index 48

- National Association of Environmental Professionals (NAEP) 79
- National Federation of Independent Business v. Sibelius* 9
- national labor policy 148–151
- National Labor Relations Act of 1935 148
- negligence 94–96
- negligent entrustment 191–193
- neutral decision maker 33
- New Deal Legislation 148
- nominal damages 106
- nonfreehold estates 67–68
- Norris–Laguardia Act of 1932 148

- Occupational Safety and Health Act of 1970 (Act) 86, 141, 143, 186, 199, 210
- Occupational Safety and Health Administration (OSHA) 12, 197–201
- Occupational Safety and Health Review Commission (OSHRC) 200
- offer to contract 112–113
- Office of the Federal Register (OFR) 49
- Office of the Law Revision Counsel of the House of Representatives 36
- one-sided agreement 117
- “on the record” appeal 38–39
- order 29
- orders in council 37
- ownership right 62

- partnering 228–230
- Patient Protection and Affordable Care Act (PPACA) 9
- payment bonds 160, 237
- peacekeeping laws. *see* procedural law; substantive laws
- pecuniary duty 190–191
- The People v. Silver* 203–205
- performance bonds 160, 236
- periodic tenancy 67

- personal injury 223
- personal property 60
 - for facility managers 62–63
 - intangible 62
 - superior right of a finder of 62
 - tangible 62
- personnel losses 224
- petitioner 39
- Phelps v. Hamlett* 203
- physical security issues 201–206
- plaintiff 16, 34, 118
- political disputes 47
- Pollution Prevention Act of 1990 85, 87
- possession 64
- possessor 64
- post-trial phase of a lawsuit 30
- Potentially Responsible Party (PRP) 84, 117
- power (s)
 - balance of 18
 - of president 10–11
 - sharing 6–7
 - to veto legislation 10–11
- precedent 12
- pre-emption 77, 81
- Pregnancy Discrimination Act 175
- Pregnancy Discrimination Act (PDA) 200
- preliminary hearing 132
- premises liability law
 - definition 100–101
 - duty a possessor of land 101
 - duty of care to third parties on property 101–105
 - premises liability claim 104–105
- premises liability litigation 215–217
- preponderance of the evidence 29
- preserving risk assignments 120
- pre-trial phase of a lawsuit 28–29, 46
 - pre-trial hearing 132
- Principal–Agent agreement 156
- private law 48
- private property 61
- Privette v. Superior Court* 112
- proactive stage 227–228
- probable cause 129
- procedural law 16, 49–54
 - civil and criminal procedure 50–51

- impact of 52
- procedural laws 21
- professional services 173–193
- project delivery system (PDS) 157–159
 - agreement type or contract 158
 - pricing structures 158–159
 - relationship scheme 159
 - selection strategy 159
- project labor agreements (PLAs) 11
- project management 186–191
- property, defined 60–61
 - lost 62
 - mislaid 62
- property law 49, 59, 61–62
 - protecting property 202–206
 - third parties in 101–105
- property lease contract 120–124
 - exculpatory clauses 122
 - lease termination 123–124
 - names of parties 121–122
- property ownership 63–65
- property rights 60
- prosecutor 34
- proximate cause 96
- public law 48
- public property 61
- punitive damages 106, 119
- pure risk 221–222

- real estate law 49, 66
- real property rights 65
- reasonable accommodations 75–76
- reasonable care standard 95
- regulatory laws 5
- Rehabilitation Act of 1973 175
- remediation laws 85
- Reporters 39
- reporters 12
- Resource Conservation and Recovery Act
 - of 1976 (RCRA) 41, 86–87, 186
- respondent 39
- Revolutionary War 18
- right of alleged criminal defendant 129
- rights to real property 66–68
- right to equal protection 128
- ripeness 47
- risk management 221–225

- Robinson v. Kroger Co.* 216
- Rodriguez v. ConAgra Grocery Products Co.* 211
- Roman law 15
- Rowland v. Christian* 217
- Rules of Criminal and Civil Procedure 34

- Safe Drinking Water Act of 1974 86–87
- search warrant 129
- second appeal 38
- self-help 124
- servant leadership 191
- Shepard's Citation resource* 44
- Sherman Anti-Trust Act of 1890 148
- Shirley v. Glass* 192
- single purpose entity (SPE) 163
- slander 94
- Small Business Tax Credit 76
- source of law 6–13
 - administrative law 11–12
 - common law 12–13
 - executive orders 10–11
 - statutes 8–10
 - United States Constitution 6–7
- Southstar Equity LLC v. Lai Chau* 216–217
- specific performance 119
- standing, issue of 47
- Stand Your Ground Doctrine 202
- stare decisis* 38, 45
- stare decisis* theory 12
- state laws 34
- state rules of evidence 53
- state supreme court 25
- statutes 8–10, 36, 48
 - compliance, environmental law 85–86
 - employee 150
 - employment rights 142
 - enforcing 19
 - environmental 87
 - of fraud 114
- Staub v. Proctor Hospital* 176
- strict liability 96–98
 - elements of 97–98
- subrogation 122
- substantive laws 49–54
 - impact of 52

- summary judgment motion 29
- “Superfund” Act 85
- superior right 62
- Superlien 86
- supervised meetings 29
- Supreme Court of the United States (SCOTUS) 30, 39, 81
- surety bonds 160, 233–237
- symbol § 36

- Tabler v. Wallace* 187–188
- Taft–Hartley Act. *see* Labor Management Relations Act of 1947
- tangible personal property 62
- tenancy 65
 - at sufferance 67
 - at will 67
- tenant rights 61
- term employee 19
- third parties in property law 101–105
- third-party beneficiaries 124
- Three-Fifths Compromise 43
- timing in lawsuits 28
- title 64
- titleholder 64
- Title 3 of the Code of Federal Regulations (CFR) 11
- Title VII of the Civil Rights Act of 1964 141, 199–200
- tort
 - defenses to 98–100
 - defined 91–92
 - intentional 92–94
 - libel 94
 - negligence 94–96
 - slander 94
 - strict liability 96–98
- tortfeasor 192
- transference 59
- Treasury and the Social Security and Medicare funds 147
- trespassers 102–103
- trial court transcripts 39
- trial phase of a lawsuit 29–30
- trustee 64

- ultra-hazardous activities 98

- unconstitutional laws 19
- undue hardship 75
- Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994 175, 177
- United States Code 36, 48
- United States Constitution 3, 6–7, 42–43
 - amendments 129–132
 - Article 1 of 43
 - Article 3 of 47
 - Fifth Amendment 129, 132
 - Fourth Amendment 129
 - Sixth Amendment 129–131
- United States Federal Register 37
- United States v. Elias* 185
- unjust enrichment 114
- unwritten customs 5
- US court system
 - appellate court 22
 - brief account of 17
 - circuits 23–25
 - during colonial times 17–18
 - federal and state court systems 22–25
 - jurisdiction 25–31
 - trial court 22
- USCS Federal Rules of Evidence, Rule 702, 167
- US Environmental Protection Agency (EPA) 81, 88
- use of property 61
- US federal system 6
- US General Accountability Office (GAO) 154
- US government, branches of 7
- US legal system
 - Article III of the US Constitution 19
 - defining law 4
 - federal legislature 19
 - functions of law 4–6, 19–30
 - parties in a dispute 33–36
 - role in the resolution of a dispute 21–22

- verdict 35
- vicarious liability 145, 206–215
- virtual citizen 19
- voir dire* 35

- Wagner Act 148
- “Waiver and Release” clause 122
- warranty of fitness 73
- warranty of habitability 73
- Washington, George 59, 90
- waste clean-up, environmental 85
- Whirlpool Corp. v. Marshall* 198–199
- Winn v. Haliday* 192
- workers’ compensation insurance 112
- workers’ compensation system 112
- Work Opportunity Tax Credit 76
- workplace injuries 135
- workplace violence 135–138
 - female victims 137
 - male victims 136
 - offender’s relationship to the victim 135
- written/expressed customs 5