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233172

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VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, D. C. 20423

re: Docket No. FD 35247, Grenada Railway LLC--Acquisition and Operation
Exemption--Illinois Central Railroad Company and Waterloo Railway
Company

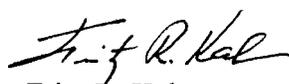
Dear Ms. Brown:

Attached for filing in the subject docket is the Reply of Grenada Railway LLC to the Petition to File Response of Mr. Robert J. Riley, filed September 28, 2012.

Copies of this letter and its attachments this day have been served by me upon each of the parties of record.

If you have any question concerning this filling or if I otherwise can be of assistance, please let me know.

Sincerely yours,


Fritz R. Kahn

cc: Mr. Don R. Brown
Dr. Sidney Bondurant
Mr. Robert J. Riley

SURFACE TRANSPORTATION BOARD

Docket No. FD 35247

GRENADA RAILWAY LLC
--ACQUISITION AND OPERATION EXEMPTION--
ILLINOIS CENTRAL RILROAD COMPANY
AND WATERLOO RAILWAY COMPANY

REPLY
OF
GENADA RAILWAY LLC

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GRENADA RAILWAY LLC

Dated: October 11, 2012

SURFACE TRANSPORTATION BOARD

Docket No. FD 35247

GRENADA RAILWAY LLC
--ACQUISITION AND OPERATION EXEMPTION--
ILLINOIS CENTRAL RILROAD COMPANY
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REPLY
OF
GENADA RAILWAY LLC

Grenada Railway LLC ("GRYR"), pursuant to 49 C.F.R. §1104.13(a), replies to the Petition to File Response of Mr. Robert J. Riley, filed September 28, 2012¹, by respectfully asking the Board to dismiss or deny the pleading, and in support thereof GRYR states, as follows:

1. The Board's rules, 49 C.F.R. §1104/13(c), do not permit the filing of a reply to a reply. As the Board declared in its Decision in Finance Docket No. 28905 (Sub-No. 27), *CSX Corporation--Control--Chessie System, Inc. and Seaboard Coast Line Industries, Inc., et al.*, served July 15, 1997, p. 3, fn. 7, "Under 49 CFR 1104.13(c), replies to replies are prohibited. This prohibition may be waived upon a showing of good cause, but [petitioners] have not shown good cause here because they have not explained why the additional argument could not have been submitted in their original petition." The same very well might be said of Mr. Riley. In his Petition to File Response he fails to explain why its additional arguments and alleged evidence could not have been

¹ Mr. Riley's Petition to file Response includes his reply to the Reply of GRYR, filed September 24, 2012, as if the Board had granted his request to waive the rule disallowing the filing of a reply to a reply.

submitted in his Petition, filed September 9, 2012. *See*, STB Finance Docket No. 34319, *Consolidated Rail Corporation--Declaratory Order Proceeding*, served October 10, 2003; STB Finance Docket No. 33905, *Lackawanna County Railroad Authority--Acquisition Exemption--F&L Realty, Inc.*, served October 22, 2001; STB Docket No. AB-406 (Sub-No. 14X), *Central Kansas Railway, L.L.C.--Abandonment Exemption--in Sedgwick County, KS*, served April 10, 2001.

2. Mr. Riley's Petition to File Response is an obvious effort on his part to rehabilitate his Petition, filed September 9, 2012. Mr. Riley, however, is not entitled to two bites at the apple. "Only in exceptional circumstances will we interrupt the deliberative process to consider what are generally prohibited replies to replies." STB Docket No. AB-33 (Sub-No. 140), *Union Pacific Railroad Company--Abandonment--in Lancaster and Gage Counties, NE, and Marshall County, KS*, served December 17, 1999, p. 2.

3. At page 1 of his Petition, filed September 9, 2012, Mr. Riley sought to have the Board "declare {GRYR's] Verified Notice of Exemption, filed May 13, 2009, void *ab initio*". "Under 49 C.F.R. § 1150.32(c) an exemption is void ab initio if the party's verified notice contains false or misleading information [footnote omitted]." Docket No. FD 35558, *Utah Southern Railroad Company, LLC--Change in Operators Exemption--Iron Bull Railroad Company, LLC*, served September 21, 2012, p. 4.. *See*, Docket No. FD 35304, *San Francisco Bay Railroad-Mare Island--Operation Exemption--California Northern Railroad*, served December 6, 2010; STB Finance Docket No. 35042, *U S Rail Corporation--Lease and Operation Exemption--Shannon G., A New Jersey Limited Liability Company*, served October 8, 2008.

4. In his Petition, filed September 9, 2012, Mr. Riley failed to indicate what information was called for by 49 C.F.R. §1150.33 that was not completely and accurately included in GRYR's Verified Notice of Exemption, filed May 13, 2009. Therefore, there was no ground for rejecting GRYR's Verified Notice of Exemption. As the Board found in its Decision in this proceeding, served December 3, 2009, "Pursuant to 49 CFR 1150.42(c), if a verified notice contains false or misleading information, the exemption is void ab initio, but Grenada's notice meets the Board's requirements under 49 CFR 1150.33 and is neither false or misleading." In his Petition for Leave to File Response, Mr. Riley does not assail the Board's Decision; he does not even mention it. His pleading is void of any evidence or arguments that would warrant the reopening of the proceeding and reconsideration of the Board's Decision.

5. At page 25 of his Petition, filed September 9, 2012, Mr. Riley asks the Board to revoke GRYR's Verified Notice of Exemption, filed May 13, 2009. The exemption, pursuant to which GRYR acquired CN's 175.4-mile Southaven-to-Canton railroad line, now has been in effect for more than three years' time. "When as here an exemption has become effective, a revocation request is treated as a petition to reopen and revoke, and, under 49 C.F.R. § 1115.3(b), must state in detail whether revocation is supported by material error, new evidence, or substantially changed circumstances." Docket No. FD 35573, *Watco Holdings, Inc. and Watco Transportation Services, L.L.C.--Acquisition of Control Exemption--Wisconsin & Southern Railroad, L.L.C.*, served March 22, 2012, p. 2. See, Docket No. FD 35449, *Tennessee Southern Railroad Company, Patriot Rail, LLC, Patriot Holdings LLC, and Patriot Rail Corp.--Corporate Family Exemption--Sacramento Valley Railroad, LLC and Piedmont & Northern Railway*, served March 6,

2012, p. 3; STB Docket No. AB-565 (Sub-No. 14X), *New York Central Lines, LLC--Abandonment Exemption--in Montgomery and Schenectady Counties, NY*, served January 22, 2004, p. 3.

6. In his Petition, filed September 9, 2012, Mr. Riley failed to specify the material error, new evidence or substantial changed circumstances which would warrant revocation of GRWR's Verified Notice of Exemption. To the contrary, the pleading largely is a rehash of the comments or protests which had been filed in opposition to GRYR's abandonment proposal in Docket No. AB-1087X, *Grenada Railway LLC-Petition for Abandonment Exemption--in Grenada, Montgomery, Carroll, Holmes, Yazoo and Madison Counties*, withdrawn with the consent of the Board, which by its Decision, served November 10, 2011, discontinued the abandonment proceeding. On page 6 of his Petition for Leave to File Response, Mr. Riley acknowledges that it was true that in his September 9, 2012, Petition he had "grabbed bits and pieces of protest statements and reply's [sic] from GRYR's abandonment proceeding last year."

7. The Board, in its Decision in this proceeding, served December 3, 2009, concluded, "The Petition does not cite specific concerns that require revocation to carry out the rail transportation policy (RTP) of 49 U.S.C. 10101. While Rep. Bondurant expresses concerns that Grenada might provide inadequate service to shippers and eventually abandon the lines, he does not provide specific evidence to substantiate his claims." In his Petition for Leave to File Response, Mr. Riley does not contend that the Board erred in its findings or in its decision not to revoke GRYR's Verified Notice of Exemption. His pleading is void of any evidence or arguments that would warrant reopening of the proceeding and reconsideration of the Board's Decision.

8. In other words, GRWR once before was required to resist the rejection or revocation of its Verified Notice of Exemption, and the Board once before rendered a decision in which it concluded that neither rejection nor revocation of the exemption was called for. Mr. Riley's Petition, filed September 9, 2012, would have GRWR relitigate these very issues. In his Petition for Leave to File Response, filed September 28, 2012, Mr. Riley takes great offense that GRYR in its Reply, filed September 24, 2012, should have urged the Board to dismiss his September 9, 2012, Petition for the reason that it was barred by the doctrine of collateral estoppel. He advances three reasons why in his view the doctrine of collateral estoppel is inapplicable: First, Mr. Riley refers to his references to the comments and protests in GRYR's discontinued abandonment proceeding, a proceeding which had begun after Dr. Bondurant filed his Petition; second, Mr. Riley says he "was not party of nor privy to" Dr. Bondurant's Petition, and third, Mr. Riley declares that he was not "involved with and participated in any decided previous attempts to revoke" GRYR's Verified Notice of Exemption. The reasons given by Mr. Riley do not invalidate GRYR's request that his earlier Petition, as well as his present Petition for Leave to File Response, be dismissed pursuant to the doctrine of collateral estoppel. As the Board observed in Finance Docket No. 30400 (Sub-No. 21), *Santa Fe Southern Pacific Corporation - Control.- Southern Pacific Transportation Company*, served December 10, 1996, p. 15, fn. 12, "Collateral estoppel (also referred to as 'issue preclusion') like the related doctrine of res judicata, has the dual purpose of protecting litigants from the burden of relitigating an identical issue with the same party **or his privy** and of promoting judicial economy by preventing needless litigation [emphasis added]." "Privy" is defined as "[a]ny of those persons having mutual or successive

relationship to the same right of property." *See*, Attachment 1. Mr. Riley by his Petition, no less than Dr. Bondurant did by his Petition, seeks the rejection or revocation of GRYR's Verified Notice of Exemption. There is a mutual or successive relationship to the same issues before the Board. Mr. Riley's Petition, filed September 9, 2012, and his Petition for Leave to File Response, filed September 28, 2012, are appropriate for dismissal by the Board pursuant to the doctrine of collateral estoppel.

9. Mr. Riley, however, is opposed to the dismissal of his Petition, filed September 9, 2012, as well as his Petition for Leave to File Response, filed September 28, 2012, pursuant to the doctrine of collateral estoppel. If, as he maintains, collateral estoppel is inapplicable, Mr. Riley cannot avoid having his Petitions dismissed pursuant to the doctrine of stare decisis. *See*, Attachment 2. The Board, in its Decision in this proceeding served December 3, 2009, held that GRYR's Verified Notice of Exemption should not be rejected or revoked. That is the Board's findings and conclusion in this proceeding and the precedent which the Board needs to follow when, as Mr. Riley has done by his Petition, filed September 9, 2012 and his Petition for Leave to File Response, filed September 28, 2012, he again calls on the Board to reject or revoke GRYR's exemption.. Dismissal by the Board of his Petitions is appropriate either pursuant to the doctrine of collateral estoppel or pursuant to the doctrine of stare decisis. Dismissal is called for pursuant to the one doctrine or the other. Mr. Riley cannot have it both ways.

10. Alternatively, Mr. Riley's Petition for Leave to File Response, filed September 28, 2012, should be denied because Mr. Riley has failed to submit compelling reasons for a waiver of the rule that the Board will not entertain a reply to a reply. Mr.

Riley tenders no evidence or arguments which could not have been included in his Petition, filed September 9, 2012. The reply which Mr. Riley took the liberty to include in his Petition for Leave to File Response merely is an attempt by Mr. Riley to have the last word in the present proceeding, which contravenes the intent of the Board's prohibition of replies to replies. *See*, Finance Docket No. 28905 (Sub-No. 27), *CSX Corporation--Control--Chessie System, Inc. and Seaboard Coast Line Industries, Inc., et al.*, served July 15, 1997, p. 3, *supra* ; STB Docket No. 41989, *Potomac Electric Power Company v. CSX Transportation, Inc.*, served June 27, 1997, p. 1.. As there has been no persuasive showing that an exception to rule 1104.13(c) should be made, Mr. Riley's Petition should be denied. *See*, STB Docket No. WCC-102, *Ocean Logistics Management, Inc. v. NPR, Inc., and Holt Cargo Systems, Inc.*, served January 14, 2000, p. 2..

11. If, however, the Board were to grant Mr. Riley's Petition for Leave to File Response, filed September 28, 2012, GRYR, pursuant to 49 C.F.R. §1117.1, respectfully petitions the Board to allow it to file a brief surreply to correct the most obvious of the errors in Mr. Riley's Petition. For example, at page 3 of his Petition, Mr. Riley has a list of charges which he claims constitute new evidence which he introduced in his September 9, 2012, Petition. GRYR is prepared to submit a sworn statement that most of the charges were not verified, as required by 49 C.F.R. 1104.4 and, therefore, do not constitute probative evidence. Among the listed charges, Mr. Riley contends that GRYR increased shipping rates. GRYR is prepared to submit a sworn statement that GRYR kept its line-haul rates at the same level from the time it began operating the Southaven-to-Canton railroad line in July of 2009 until February of 2011, and then it increased only

the line-haul rates to and from Canton and not to and from Memphis. Demurrage was not increased at all. Mr. Riley among his listed charges claims to have pointed out similarities between GR YR's acquisition of the Southaven-to-Canton railroad line from CN and SF&L Railway's acquisition of the LaHarpe-to-Peoria railroad line from Toledo, Peoria & Western Railway Corporation. GR YR is prepared to submit a sworn statement that the transactions and the steps taken by the parties preceding their consummation were altogether different. Another of Mr. Riley's listed charges, as he further asserts on page 9 of his Petition for Leave to File Response, is that GR YR inappropriately removed track from the railroad line without prior Board approval. GR YR is prepared to file copies of Board decisions in which it held that the removal of track does not constitute abandonment and requires no advance authorization by the Board. At page 5 of his Petition for Leave to File Response, Mr. Riley refers to Exhibits H and I of his September 9, 2012, Petition and the Federal Railroad Administration's requirement that GR YR maintain two hot box detectors. GRWR is prepared to submit a sworn statement that the two hot box detectors are being maintained as called for by the FRA. At pages 6-8 of his Petition for Leave to File Response, Mr. Riley disputes GRWR's assertion at page 8 of its Reply, filed September 24, 2012, that throughout the more than three-year period since its exemption became effective on May 29, 2009, not a single shipper has lodged a complaint with the Board that GR YR was rendering less than adequate service. GR YR is prepared to submit a sworn statement attesting to the truth of its assertion. Finally, at page 8 of his Petition, Mr. Riley contends that GWYR at pages 8-9 of its Reply claimed that it would cost \$784,000 to repair the one hundred year old, 112-foot bridge at

Milepost 656.4. GRYR is prepared to submit a sworn statement that the stated amount was shown to be the estimated cost of replacing the bridge and not repairing it.

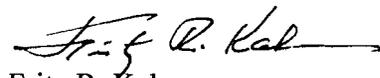
12. The misrepresentations of Mr. Riley's Petition for Leave to File Response call for correction, and, therefore, GRYR asks that, if the Board were disposed to neither dismiss nor deny Mr. Riley's Petition, that its petition to file a surreply be granted. *See*, STB Finance Docket No. 34397, *Keokuk Junction Railway Company--Alternative Rail Service--Line of Toledo, Peoria and Western Railway Corporation*, served October 31, 2003, p. 2; No. 41670, *Shell Chemical Company and Shell Oil Company v. Boston & Maine Corporation, et al.*, served December 15, 1997, p. 2.

WHEREFORE, Grenada Railway LLC respectfully asks that the Board dismiss or deny Mr. Robert J. Riley's Petition for Leave to File Response, filed September 28, 2012, but, if the Board were to neither dismiss nor deny the Petition, that Grenada Railway LLC's petition to file a brief surreply be granted.

Respectfully submitted,

GRENADA RAILWAY LLC

By its attorney,



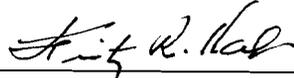
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Washington, DC 20036
Tel.: (202) 263-4152

Dated: October 11, 2012

CERTIFICATE OF SERVICE

I certify that I this day have served the foregoing Reply on Mr. Robert J. Riley, Dr. Sidney Bondurant and Mr. Don R. Brown by mailing copies to them by prepaid first-class mail.

Dated at Washington, DC, this 11th day of October 2012.



Fritz R. Kahn

ATTACHMENT 1

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THIN PAPER

WEBSTER'S NEW COLLEGIATE DICTIONARY

A Merriam-Webster
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BASED ON

WEBSTER'S NEW INTERNATIONAL DICTIONARY

SECOND EDITION



G. & C. MERRIAM CO., PUBLISHERS
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ernments. 4. Exchanges. A call, put, spread, or straddle. — v. t. ; -LEGGED (-lĭd); -LEGGING (-lĭng). To grant a privilege or privileges to; invest with a peculiar right, immunity, or prerogative; also, to exempt (from); — now often in past part.; as, the privileged classes; a privileged communication.

priv'i-ty (prĭv'ĭ-tĭ), n.; pl. -TIES (-tiz). [OF. *privetĕ*.] 1. Obs. Privacy; a private matter. 2. Private knowledge; joint knowledge of a private matter. 3. Law. A connection, or bond of union, between parties, as to some particular transaction; the relationship between privies (see PRIVY, n., 1).

priv'y (prĭv'ĭ), adj. [OF. *privĕ*, fr. L. *privatus* private.] 1. Archaic. a For private use or personal service; not public; — Obs., except in *privy chamber*, *privy purse*, etc. b Hidden or clandestine; furtive. 2. Secretly cognizant; privately aware as a party; — now with *to*. — n.; pl. PRIVIES (-iz). 1. Law. Any of those persons having mutual or successive relationship to the same right of property. 2. Now Local. A toilet, water closet, or the like. — priv'i-ly, adv.

privy council. A secret council; also, a private, or personal, council; esp.: [*capa.*] a Eng. Hist. The body of men appointed by the crown, without any patent or grant, to advise it in matters of state. b The similar body appointed to advise the governor or ruler, as in Canada, Japan, Jamaica, etc. Hence, *privy councilor* or *councilor*.

privy seal. In Great Britain, the seal which the king uses in grants, etc., which are to pass the great seal, or in lesser matters that do not require the great seal.

||prix fixe (prĭz' fĭks'). [F., fixed price.] Table d'hôte (def. 2); also, the price charged for such a meal.

prize (prĭz), v. t. [OF. *priser*, fr. LL. *pretiare*, fr. *pretium* worth, value.] 1. To appraise; price; rate. 2. To value highly; to esteem. — Syn. See APPRECIATE.

prize, n. [OF. *prise* a seizing, hold, grasp, fr. *prendre* to take, fr. L. *prehendere*, past part. *prehensus*.] 1. Act of capturing or taking; also, a thing or person seized by force, stratagem, or superior power. 2. Now Dial. A lever; also, leverage. 3. Law. The capture of anything by a belligerent using the rights of war, or the property captured; esp., the capture of a ship, or the ship captured. — Syn. See SPOIL. — v. t. To seize as a prize.

prize, v. t. [From *prize* a lever, fr. ME. *prise*, fr. OF. *prise* a taking hold. See 2d PRIZE.] To press, force, or move, esp. with a lever; to pry.

prize, n. [ME. *pris*, *prise*. See PRICE, PRIZE to value.] 1. Something offered or striven for in competition or in contests of chance. 2. Anything worth striving for; an advantage or privilege. 3. Hist. A contest for a reward.

prize (prĭz), adj. 1. Having been awarded a prize; as, a prize essay; also, worthy of a prize; as, a prize effort. 2. Awarded as a prize; as, a prize medal.

prize court. Law. A court having jurisdiction to adjudge upon captures at sea in time of war.

prize fight. An exhibition contest of pugilists for a stake or wager. Hence: *prize fighter*; *prize fighting*.

prize money. Nav. A portion of the proceeds of a captured vessel divided among the officers and men making the capture.

priz'er (prĭz'ĕr), n. Archaic. One who contends for a prize.

prize ring. The ring for a prize fight; also, prize fighting.

||pro (prō), prep. [L.] A Latin preposition signifying *for*, *before*, *forth*.

pro (prō), adv. For, on, or in behalf of, the affirmative side; — opposed to *con*; as, they debated it *pro* and *con*. — n. One who takes the affirmative side; an affirmative vote, argument, etc.

pro (prō), n.; pl. PROS (prōz). A professional; esp., a professional athlete. — *pro*, adj.

pro- (prō-; prō-). [L. *pro*. In F., L. *pro* often became *pour*, OF. also *por*, whence the E. *pur-*, as in *purchase*, *purvey*.] A prefix signifying in general *before*, *in front*, *forth*, *for*, *in behalf of*, *in place of*, *according to*. Special implications of sense are: a *Forth*, *forward*, *onward*, with the idea of *motion before* or *to the front*, as in *proceed*, *go before*, or *forward*, *project*, *propel*. b *In place of*, *for*, *instead of*, with the idea of *substitution*, as in *pronoun*, a word acting in place of a noun; also *specif.* in titles, *deputy*, as in *proconsul*, a person acting in place of a consul. c *For*, *in behalf of*, from the idea of *standing before* or *in front of* for *defense* or *protection*, as in *procure*, to gain, literally, to care for. d *For*, *in favor of*, *adherent to*, *partisan of*, as in *proslavery*, *pro-Ally*.

pro-. [Gr. *pro*.] A prefix meaning *before*, used to denote: a *Priority of place* with the sense of *position before*, *in front of*, as in *proscenium*. b *Priority of order* or *time*, in the sense of *occurring before*, *beforehand*, as in *prologue*, part spoken before (the main piece).

pro'a (prō'ā), n. [Malay *prao*, *prau*, boat.] A double-ended outrigger canoe of Malaysia, with large lateen sail.

pro-Al-ly' (prō'ā-lĭ'; āl'ĭ), adj. Favoring the Allies in World War I or World War II.

prob'a-bil-ism (prōb'ā-bĭ-lĭz'm), n. 1. The doctrine that certainty is impossible, but that probability suffices to govern belief and action. 2. In casuistry, any of certain theories respecting moral obligation in cases where it is difficult to determine whether the law holds; specif., the theory that an opinion favoring liberty may be followed even though that for law is more probable, if that opinion commends itself to judicious minds or is supported by sound authority. — *prob'a-bil-ist* (-lĭst), n. & adj.

prob'a-bil'i-ty (-bĭl'ĭ-tĭ), n.; pl. -TIES (-tiz). 1. Quality or state of being probable; likelihood; as, *probability* of guilt. 2. That which is or appears probable. 3. Math. The likelihood of the occurrence of any particular form of an event, estimated as the ratio of the number of ways in which that form might occur to the whole number of ways in which the event might occur in any form.

prob'a-ble (prōb'ā-b'l), adj. [F., fr. L. *probabilis*, fr. *probare* to try, prove.] 1. Supported by evidence strong enough to establish presumption, but not proof. 2. Now Rare. Establishing a probability; as, *probable* evidence. 3. Likely to be or become true or real; reasonably, but not certainly, to be believed or expected; as, *probable* events. *Syn.* *Probable*, possible, likely mean such as may be or may become actual or true. *Probable* applies to that which is so reasonable or well evidenced that it almost induces belief; possible, to that which lies within the powers of performance, attainment, etc., of an agent or agency; likely, to that which is to all appearances as alleged, suggested, required, etc.

probable cause. Law. A reasonable ground of presumption that a charge is well founded.

prob'a-bly (prōb'ā-b'lĭ), adv. In all probability; very likely; as, he is probably the best candidate.

prob'ang (prō'bāng), n. A slender rod with a sponge on the end, for removing obstructions from the esophagus, etc.

prob'ate (prō'bāt or, esp. Brit., prō'bĭt), adj. [L. *probatus*, past part. of *probare* to prove.] Of or belonging to a probate, or court of probate, or its jurisdiction. — n. Law. Official proof, esp. of an instrument offered as the last will and testament of a person deceased. — (prō'bāt), v. t. To make probate of, esp. of an instrument purporting to be the last will and testament of a person.

probate court. A court for the probate of wills, administration of estates, and related matters.

prob'ation (prō-bā'shĭn), n. [F., fr. L. *probatio*, fr. *probare* to try, prove.] 1. Now Chiefly Scot. Act of proving; proof. 2. Any proceeding designed to ascertain truth, to determine character, qualification, etc.; trial or a period of trial; as, to engage a person on *probation*. 3. In some universities, colleges, and schools, a status of trial for deficient or culpable students, usually marked by certain penalties. 4. Law. The method of treating a convicted delinquent whereby he is released on a suspended sentence under supervision and upon specified conditions; also, the status of a convicted person so released; as, placed on *probation*. — *prob'ation-al* (-āl; -'l), *prob'ation-ary* (-ĕr'ĭ or, esp. Brit., -ĕr'ĭ), adj.

prob'ation-er (-ĕr), n. 1. One who is undergoing probation; one who is on trial, as a newly admitted student nurse. 2. A convicted delinquent on probation.

probation officer. Chiefly U.S. In a municipal criminal court, an officer appointed by the magistrate to exercise supervision over, and receive regular reports from, an offender whose sentence is suspended.

prob'a-tive (prō'bā-tĭv; prō'bā-tĭv), adj. 1. Serving to test or try. 2. Serving to prove.

prob'a-to-ry (prō'bā-tōr'ĭ or, esp. Brit., -tĕr'ĭ), adj. Pertaining to, or serving for, proof; as, *probatory* evidence.

probe (prōb), n. [ML. *proba* examination, proof.] 1. Surg. A slender instrument for examining a cavity, as a wound, ulcer, etc. 2. An explorative examination or test; specif., U.S., an inquiry directed to the discovery of evidence of wrongdoing; as, a legislative *probe*. — v. t. [From *probe*, n., and fr. L. *probare* to test.] 1. To examine, as a wound, with a probe. 2. To investigate thoroughly; as, to *probe* one's motive. 3. To penetrate as with a probe; to pierce deeply. — *Syn.* See ENTER. — *prob'er* (prōb'ĕr), n.

prob'i-ty (prōb'ĭ-tĭ; prō'bĭ-), n. [F. *probitĕ*, fr. L. *probitas*, fr. *probus* good, honest.] Tried virtue or integrity; uprightness. — *Syn.* See HONESTY.

prob'lem (prōb'lĕm; -lĕm), n. [OF. *probleme*, fr. L. *problema*, fr. Gr. *problēma* anything thrown forward, deriv. of *pro* + *ballein* to throw.] 1. A question proposed for solution; hence, a perplexing question, situation, or person. 2. Math. ANYTHING that is required to be done. Cf. THEOREM, 2. — *Syn.* See MYSTERY. — *adj.* 1. Dealing with a problem; of a play, novel, etc., having a plot presenting a problem of human conduct or relationship. 2. Of a child, presenting a problem to those responsible for him because of misconduct or maladjustment.

prob'lem-at'i-cal (prōb'lĕm-ăt'ĭ-kāl), adj. Also *prob'lem-at'ic* (-ĭk). Having the nature of a problem; difficult and uncertain; also, puzzling. — *Syn.* See DOUBTFUL. — *prob'lem-at'ic-al-ly*, adv.

||pro bo'no pu'bli-co (prō bō'nō pūb'ĭk-ō). [L.] For the public good.

prob'os-cid'e-an (prōb'ōs'ĭd'ĕ-ān), adj. Proboscidian.

prob'os-cid'i-an (-ĭ-ān), adj. [See PROBOSCIS.] Zool. Belonging to an order (Proboscidea) of ungulate mammals consisting of the elephants and their extinct allies. — *prob'os-cid'i-an*, n.

prob'os-cis (prōb'ōs'ĭs), n.; pl. PROBOSCISES (-ĕz; -ĭz), PROBOSCIDES (-ĭ-dĕz). [L., fr. Gr. *proboskis*, fr. *pro* + *boskein* to feed.] 1. a The trunk of an elephant; also, any long flexible snout, as in the tapirs, shrews, etc. b Humorously, the human nose. 2. Zool. Any of various tubular processes or prolongations of the head of animals, as in insects; a tubular sucking organ.

pro-caïne' (prō-kā'n; prō'kān; cf. COCAINE), n. [*pro* + *cocaine*.] Pharm. A local anesthetic (C₁₇H₂₁O₃NHCl) resembling cocaine, but less toxic.

pro-cam'bi-um (prō-kām'bĭ-ūm), n. [NL. See *PRO*; *CAMBIIUM*.] Bot. That meristematic tissue which forms the first units of vascular tissue. — *pro-cam'bi-al* (-āl), adj.

pro'carp (prō'kärp), n. Bot. The female reproductive organ in certain red algae. Cf. CARPOGONIUM, SPORO-CARP.

pro-ca-the'dral (prō'kā-thĕ'drāl), n. Eccl. A parish church used as a cathedral, as in a new diocese.

pro-ce'dur-al (prō-sĕ'dŭr-āl), adj. Law. Of or pertaining to procedure; as, a *procedural* contract, or one binding the maker to abide by the award of a court.

pro-ce'dure (-dŭr; 118), n. [F. *procédure*.] 1. Manner or method of proceeding in a process or course of action; also, a particular way of proceeding. 2. The continuance of a process or operation; progress. 3. Customary method of conducting business in a deliberative body; parliamentary order; as, rules of *procedure*.

pro-ceed' (prō-sĕd'), v. i. [OF. *proceder*, fr. L. *procedere*, -*cessum*, to go before, fr. *pro* + *cedere* to move.] 1. To move, pass, or go forward or onward; to advance. 2. To issue or come forth as from a source or origin; to come (*from*). 3. To go on in an orderly or resolute manner; to prosecute a design. 4. Law. To begin and carry on a legal proceeding. — *Syn.* See SPRING.

pro-ceed (prō'sĕd), n. Now only in pl. That which results, proceeds, or accrues from some possession or transaction; esp., the amount realized from a sale of property.

pro-ceed'ing (prō-sĕd'ĭng), n. a = PROCEDURE, 1 & 2. b An act, measure or step in a course of business or conduct; a transaction; as, an *illegal proceeding*. c pl. Minutes of a society, board, etc.; as, to publish the commission's *proceedings*. d Law. (1) pl. The course of procedure in an action at law. (2) Any step or act taken in conducting litigation.

pro-ce-phal'ic (prō'sĕ-fāl'ĭk), adj. Zool. Pertaining to, or forming, the front of the head.

pro-cess (prō'sĕs or, esp. Brit., prō'sĕs), n.; pl. PROCESSES (-ĕz; -ĭz; *Anat. occas.* -ĕz). [OF. *proces*, fr. L. *processus*. See PROCED.] 1. Act of proceeding; progress; advance. 2. a Any phenomenon which shows a continuous change in time; as, the *process* of growth.

ATTACHMENT 2

Black's Law Dictionary[®]

Seventh Edition

Bryan A. Garner
Editor in Chief



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Standing Committee on Rules of Practice and Procedure. A group of judges, lawyers, and legal scholars appointed by the Chief Justice of the United States to advise the Judicial Conference of the United States on possible amendments to the procedural rules in the various federal courts and on other issues relating to the operation of the federal courts. 28 USC § 331.

"[Under 28 USC § 331], the Judicial Conference of the United States has created a Standing Committee on Rules of Practice and Procedure and has authorized the appointment from time to time of various advisory committees. These committees make recommendations regarding amendments of the rules to the Judicial Conference, which in turn transmits those recommendations it approves to the Supreme Court. Under this new plan, as under the machinery in effect from 1934 to 1956, the Court retains the ultimate responsibility for the adoption of amendments to the rules." 4 Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1007, at 35 (2d ed. 1987).

standing master. See MASTER.

standing mortgage. See *interest-only mortgage* under MORTGAGE.

standing offer. See OFFER.

standing order. See ORDER (2).

standing seized to uses. Holding title for the benefit or use of another, such as a relative in consideration of blood or marriage. • A covenant to stand seized to uses is a type of conveyance that depends on the Statute of Uses for its effect. — Often shortened to *seized to uses*. See STATUTE OF USES.

standing to sue. See STANDING.

stand mute. 1. (Of a defendant) to refuse to enter a plea to a criminal charge. • Standing mute is treated as a plea of not guilty. 2. (Of any party) to raise no objections.

standstill agreement. Any agreement to refrain from taking further action; esp., an agreement by which a party agrees to refrain from further attempts to take over a corporation (as by making no tender offer) for a specified period, or by which financial institutions agree not to call bonds or loans when due.

stand trial. To submit to a legal proceeding, esp. a criminal prosecution.

staple (stay-pəl). *Hist.* 1. A key commodity such as wool, leather, tin, lead, butter, or cheese (collectively termed *the staple*). 2. A town appointed by the Crown as an exclusive market for staple products. See STATUTE STAPLE.

Star Chamber. 1. *Hist.* An English court having broad civil and criminal jurisdiction at the king's discretion and noted for its secretive, arbitrary, and oppressive procedures, including compulsory self-incrimination, inquisitorial investigation, and the absence of juries. • The Star Chamber was abolished in 1641 because of its abuses of power. — Also termed *Court of Star Chamber*. 2. (*usu. l.c.*) Any secretive, arbitrary, or oppressive tribunal or proceeding.

stare decisis (stahr-ee di-si-sis or stair-ee), *n.* [Latin "to stand by things decided"] The doctrine of precedent, under which it is necessary for a court to follow earlier judicial decisions when the same points arise again in litigation. See PRECEDENT; NON QUIETA MOVERE. Cf. RES JUDICATA; LAW OF THE CASE.

"The rule of adherence to judicial precedents finds its expression in the doctrine of stare decisis. This doctrine is simply that, when a point or principle of law has been once officially decided or settled by the ruling of a competent court in a case in which it is directly and necessarily involved, it will no longer be considered as open to examination or to a new ruling by the same tribunal, or by those which are bound to follow its adjudications, unless it be for urgent reasons and in exceptional cases." William M. Lile et al., *Brief Making and the Use of Law Books* 321 (3d ed. 1914).

"The general orthodox interpretation of stare decisis ... is stare rationibus decidendis ('keep to the rationes decidendi of past cases'), but a narrower and more literal interpretation is sometimes employed. To appreciate this narrower interpretation it is necessary to refer ... to Lord Halsbury's assertion that a case is only authority for what it actually decides. We saw that situations can arise in which all that is binding is the decision. According to Lord Reid, such a situation arises when the ratio decidendi of a previous case is obscure, out of accord with authority or established principle, or too broadly expressed." Rupert Cross & J.W. Harris, *Precedent in English Law* 100-01 (4th ed. 1991).

stare decisis et non quieta movere (stair-ee di-si-sis et non kwi-ee-tə moh-veer-ee). [Latin] To stand by things decided, and not to disturb settled points. See STARE DECISIS.

stare in judicio (stair-ee in joo-dish-ee-oh). [Latin] *Hist.* To appear before a tribunal as either a plaintiff or a defendant.

star paging, n. 1. A method of referring to a page in an earlier edition of a book, esp. a legal source. • This method correlates the pagination

of the later edition with the first) edition. 2. F of displaying on a cc breaks that occur in p law reports and law star pagination. — st:

starr (stahr), *n.* [fr. I sh'tar "a writing"] (esp. for release of an declared to be invalid lawful repository, t king's Exchequer & termed *starra*.

"It is well known th Jews under Edward were denominated in starrs, from a corrupt covenant.... These the first ... were con ed in chests under th the most considerabl quer at Westminster where the chests cor probably called the were expelled the ki king's council, when William Blackstone, land 263 n.a (1769).

stash, vb. To hide (ty).

stat. abbr. STATUTE.

state, n. 1. The p people who are pc of rules by which exercised over su tion of church political society. C

"A state or politi beings established certain means. It kinds of society necessary basis e sation. What th other forms of a from such other joint-stock comp clearly one of f reference to su essential and c dence 129 (Gle

"A state is an i relations which means of secu fundamental i activities can b their governn things within habitable wor