

## HANDOUT 10: Key Terms from the Paisley Snail

*Common Law:* As distinguished from law created by legislatures. This law comprises the body of principles and rules of action applied by the courts in deciding individual cases.

*In Forma Pauperis:* Literally, “as an impoverished person”. A person making an application to a court in forma pauperis is not required to post security for costs in case the applicant loses.

*Appellant:* The party who takes an appeal from one court to another.

*Vicarious Liability:* In certain circumstances, a blameless person will be held responsible for the torts of another. For instance, the owner of a car will be held vicariously liable if s/he lends it to someone who negligently injures a third person.

*Neighbour Practice:* You must take reasonable care to avoid acts or omissions which you can reasonably foresee would be likely to injure your neighbour. Neighbours are persons who are closely and directly affected by your acts.

*Court Costs:* A sum of money for expenses in bringing or defending an action. It is paid by the losing party to the successful party.

*Balance of Probabilities:* A private or civil wrong or injury, other than breach of contract, for which the court will provide a remedy in the form of an action for damages

*Statute:* A law established by a legislative body; a permanent established rule or law, especially one involved in the running of a company or other organization.

*Duty of Care:* Just, proper, and sufficient care, so far as the circumstances demand it; the absence of negligence. That care which an ordinarily prudent person would have exercised under the same or similar circumstances.

*Pursuer:* In Scots law, the person who follows, prosecutes, or enforces a matter judicially, as a complaining party. Referred to in common law jurisdictions as the “Plaintiff”.

*Defendant:* In Scots law, the person defending or denying; the party against whom relief or recovery is sought in an action or suit. Referred to in common law jurisdictions as the “Defendant”.

*Strict Liability:* The concept applied by the courts in product liability cases in which a seller is liable for defective or hazardous products which cause injury to the purchaser, without proof of negligence on the seller's part.

*Product Liability:* Refers to the legal liability of manufacturers and sellers to compensate buyers, users, and even bystanders, for damages or injuries suffered because of defects in goods purchased.

*Barrister:* In England, a lawyer who is engaged in conducting the trial or argument of causes. The barrister does the actual court work, presenting and arguing the case in court. In Canada, there is no distinction between barrister and solicitor (all lawyers are both a barrister and solicitor).

*Interlocutory:* Something intervening between the commencement and the end of a suit which decides some point or matter, but is not a final decision of the whole controversy.

*Ratio Decidendi:* The ground or reason for a decision. The point in a case which determines the judgment.

*Standard of Care:* In law of negligence, that degree of care which a reasonably prudent person should exercise under same or similar circumstances. If a person's conduct falls below such standard, he or she may be liable for injuries or damages resulting from this.

*Respondent:* In an appeal, the person who must respond to the appeal made by the appellant.

*Motion:* An application made to a court or judge for the purpose of obtaining a rule or order directing some act to be done in favour of the applicant.

*Solicitor:* The lawyer who assembles the legal materials, does the research, and compiles the legal precedents. A solicitor also prepares documents like wills and mortgages. In Canada, there is no distinction between barrister and solicitor (all lawyers are both).

*Obiter Dicta:* A remark made, or opinion expressed, by a judge, in a decision "by the way," that is, incidentally, and not directly involved in the determination of the cause.