

EXHIBITS K,L,M

Fast Read
Follow the Red writing

EXHIBIT K

Another is that *ss.* represents '[t]he two gold letters at the ends of the chain of office or "collar" worn by the Lord Chief Justice of the King's Bench . . . ' Max Radin, *Law Dictionary* 327 (1955). Mellinkoff suggests that the precise etymology is unknown: 'Lawyers have been using *ss.* for nine hundred years and still are not sure what it means.' David Mellinkoff, *The Language of the Law* 296 (1963). In fact, though, it is a flourish deriving from the Year Books — an equivalent of the paragraph mark: '¶.' Hence Lord Hardwicke's statement that *ss.* is nothing more than a division mark. See *Jodderrell v. Cowell*, 95 Eng. Rep. 222, 222 (K.B. 1737) . . . An early formbook writer incorporated it into his forms, and ever since it has been mindlessly perpetuated by one generation after another.' Bryan A. Garner, *Garner's Dictionary of Legal Usage* 839 (3d ed. 2011).

SSA. *abbr.* SOCIAL SECURITY ADMINISTRATION.

SSCRA. *abbr.* SOLDIERS' AND SAILORS' CIVIL RELIEF ACT.

SSDI. *abbr.* SOCIAL SECURITY DISABILITY INSURANCE.

SSI. *abbr.* SUPPLEMENTAL SECURITY INCOME.

SSM. *abbr.* Sua sponte motion.

SSO. *abbr.* STANDARD-SETTING ORGANIZATION.

SSS. *abbr.* SELECTIVE SERVICE SYSTEM.

STA. *abbr.* SPEEDY TRIAL ACT OF 1974.

stabilize, vb. (1861) 1. To make firm or steadfast <to stabilize the ship>. 2. To maintain a particular level or amount <stabilize prices>.

stable stand. (16c) *Hist.* In forest law, a person found standing in a forest either with a bow bent, ready to shoot a deer, or close to a tree with greyhounds on a leash and ready to slip, being presumptive evidence of an intent to steal the Crown's deer.

stacking. (1982) 1. *Insurance.* The process of obtaining benefits from a second policy on the same claim when recovery from the first policy alone would be inadequate.

► **judicial stacking.** (1983) The principle that a court can construe insurance policies to permit stacking, under certain circumstances, when the policies do not specifically allow stacking but public policy is best served by permitting it.

► **policy stacking.** Stacking that is permitted by the express terms of an insurance policy.

2. A gerrymandering technique in which a large political or racial group is combined in the same district with a larger opposition group. Cf. CRACKING; PACKING.

staff attorney. 1. See ATTORNEY. 2. See CLERK (5).

staff director. See EXECUTIVE DIRECTOR.

staff judge advocate. See JUDGE ADVOCATE.

staff officer. See OFFICER (1).

stage representation. See *stage representation* under REPRESENTATION (2).

stagflation (stag-flay-shən), *n.* (1965) A period of slow economic growth or recession characterized by high inflation, stagnant consumer demand, and high unemployment. — **stagflationary**, *adj.*

staggered board of directors. See BOARD OF DIRECTORS.

stagiarius (stay-jee-air-ee-əs), *n.* [Latin] *Hist.* 1. *Eccles. law.* A resident canon; an ecclesiastic bound to keep terms of residence. 2. A stagiary; a law student keeping terms before admission to the bar.

stake, n. (bef. 12c) 1. Something (such as property) deposited by two or more parties with a third party pending the resolution of a dispute; the subject matter of an interpleader. 2. An interest or share in a business venture. 3. Something (esp. money) bet in a wager, game, or contest. 4. A boundary marker used in land surveys.

stakeholder. (18c) 1. A disinterested third party who holds money or property, the right to which is disputed between two or more other parties. See INTERPLEADER. 2. Someone who has an interest or concern in a business or enterprise, though not necessarily as an owner. 3. A person who has an interest or concern (not necessarily financial) in the success or failure of an organization, system, plan, or strategy, or who is affected by a course of action. 4. Someone who holds the money or valuables bet by others in a wager.

stale check. See CHECK.

stale claim. See CLAIM (3).

stale-dated check. See *stale check* under CHECK.

stale demand. 1. See DEMAND (1). 2. See *stale claim* under CLAIM (3).

staleness rule. (1980) *Criminal law.* The doctrine that an application for a search warrant is bad if too much time has passed since probable cause was known to have existed.

Stalingrad defense. See DEFENSE (2).

stalking. (bef. 12c) 1. The act or an instance of following another by stealth. 2. The offense of following or loitering near another, often surreptitiously, to annoy or harass that person or to commit a further crime such as assault or battery. • Some statutory definitions include an element that the person being stalked must reasonably feel harassed, alarmed, or distressed about personal safety or the safety of one or more persons for whom that person is responsible. And some definitions include acts such as telephoning another and remaining silent during the call. Cf. CYBERSTALKING. — **stalker, n.**

stalking-horse theory. (2002) *Criminal procedure.* The notion that a probation officer's search of a probationer or his home is inappropriate if the officer was acting at the behest of police who were trying to evade the probable-cause requirement.

stallage (stawl-ij), *n.* (14c) *Hist.* 1. The right to erect stalls in public markets. 2. The cost for that right.

stamp, n. (15c) An official mark or seal placed on a document, esp. to indicate that a required tax (such as duty or excise tax) has been paid.

stamp acts. (18c) English statutes requiring and regulating stamps on deeds, contracts, legal papers, bills, or other documents.

stamp duty. (18c) *Hist.* A tax raised by requiring stamps sold by the government to be affixed to designated documents, thus forming part of the perpetual revenue. See *stamp tax* under TAX.

"A fifth branch of the perpetual revenue consists in the stamp duties, which are a tax imposed upon all parchment and paper whereon any legal proceedings, or private instruments of almost any nature whatsoever, are written; and also upon licenses . . . and pamphlets containing less than six sheets of paper. These imposts are very various, according to the nature of the thing stamped, rising gradually from

Statutum de Nova Custuma (stə-t[y]oo-təm dee noh-və kəs-chə-mə or kəs-tyə-mə). See CARTA MERCATORIA.

stay, *n.* (16c) 1. The postponement or halting of a proceeding, judgment, or the like. 2. An order to suspend all or part of a judicial proceeding or a judgment resulting from that proceeding. — Also termed *stay of execution*; *suspension of judgment*. — **stay**, *vb.* — **stayable**, *adj.*

► **automatic stay**. (1922) *Bankruptcy*. A bar to all judicial and extrajudicial collection efforts against the debtor or the debtor's property, subject to specific statutory exceptions. 11 USCA §§ 362(a)–(b). • The policy behind the automatic stay, which is effective upon the filing of the bankruptcy petition, is that all actions against the debtor should be halted pending the determination of creditors' rights and the orderly administration of the debtor's assets free from creditor interference. — Also termed *automatic suspension*.

stay-away order. (1983) 1. In a domestic-violence case, an order forbidding the defendant to contact the victim. • A stay-away order usu. prohibits the defendant from coming within a certain number of feet of the victim's home, school, work, or other specific place. Stay-away orders are most often issued in criminal cases. 2. **RESTRAINING ORDER** (1). 3. In a juvenile-delinquency case, an order prohibiting a youthful offender from frequenting the scene of the offense or from being in the company of certain persons. — Also termed *no-contact order*; *stay-away order of protection*.

stay of execution. See **STAY**.

stay of mandate. (1881) 1. The suspension of a lower court's order of execution, imposed by a higher court. See **MANDATE** (1). 2. An appellate court's suspension of its own judgment pending reconsideration or further appeal.

stayor. (1842) *Rare. Tennessee law*. A surety for a judgment.

stay-put rule. (1980) *School law*. The principle that a child must remain in his or her current educational placement while an administrative claim under the Individuals with Disabilities Education Act (usu. for an alternative placement or for mainstreaming) is pending. 20 USCA § 1415(j).

STB. *abbr.* SURFACE TRANSPORTATION BOARD.

STD. *abbr.* (1974) SEXUALLY TRANSMITTED DISEASE.

steady course. (17c) *Maritime law*. A ship's path that can be readily ascertained either because the ship is on a straight heading or because the ship's future positions are easy to plot based on the ship's current position and movements.

steal, *vb.* (bef. 12c) 1. To take (personal property) illegally with the intent to keep it unlawfully. 2. To take (something) by larceny, embezzlement, or false pretenses.

stealing by finding. See *larceny by finding* under **LARCENY**.

stealth. (14c) 1. *Hist.* Theft; an act or instance of stealing. • Etymologically, this term is the noun corresponding to the verb *steal*.

"Stealth is the wrongful taking of goods without pretence of title: and therefore altereth not the property, as a trespass doth, so as upon an appeal the party shall re-have them." Henry Finch, *Law, or a Discourse Thereof* 210 (1759).

2. Surreptitiousness; furtive slyness.

stealth juror. See **JUROR**.

steering committee. 1. A special subgroup of legislators who determine the order in which business will be considered by the full legislature. 2. Any select group that guides or directs a particular activity.

steganography (steg-ə-nog-rə-fee), *n.* (16c) A cryptographic method that digitally embeds or encodes one item of information within another. • Because digitized audio or visual files usu. have unused data areas, indelible (and nearly undetectable) information can be added without altering the file's quality. Copyright or trademark tags can be hidden in every fragment of a digital work, making disassociation almost impossible. — Also termed *digital fingerprinting*; *digital watermarking*.

stellionatus (stel-ee-ə-nay-təs or stel-yə-). [Latin "underhand dealing"] (17c) *Roman & Scots law*. Conduct that is fraudulent but does not fall within a specific class of offenses. • This term applies primarily to fraudulent practices in the sale or hypothecation of land. — Also termed (in Scots law) *stellionate*. Cf. **COZENING**.

"STELLIONATE . . . is a term applied, in the law of Scotland, either to any crime which, though indictable, goes under no general denomination, and is punishable arbitrarily, or to any civil delinquency of which fraud is an ingredient. Those, e.g., who grant double conveyances of the same subject, are guilty of this crime . . . and are punishable arbitrarily in their persons and goods, besides becoming infamous." William Bell, *Bell's Dictionary and Digest of the Law of Scotland* 940 (George Watson ed., 1882).

"Though *pignus* and *hypothec* are almost different names for the same thing, there were differences. *Hypothec* was used mainly for land, which cannot be removed. A thing could be pledged only to one, but successive *hypothecs* might be created over a thing. There was no fraud in this but it was the offence of *stellionatus* to give a *hypothec* without declaring existing *hypothecs*." W.W. Buckland, *A Manual of Roman Private Law* 355 (2d ed. 1939).

stenographer's record. See *reporter's record* under **RECORD**.

stent, *n.* (14c) *Scots law*. A property assessment made for taxation purposes.

stent, *vb.* (15c) *Scots law*. To assess or charge (a person or community) for taxation purposes.

stepbrother. See **BROTHER**.

stepchild. See **CHILD**.

STEP court. *abbr.* Supervised-treatment and education-program court.

stepfather. See **FATHER**.

step-in-the-dark rule. (1955) *Torts*. The contributory-negligence rule that a person who enters a totally unfamiliar area in the darkness has a duty, in the absence of unusual stress, to refrain from proceeding until first ascertaining whether any dangerous obstacles exist. See *contributory negligence* under **NEGLIGENCE**.

stepmother. See **MOTHER**.

stepparent. See **PARENT** (1).

stepparent adoption. See **ADOPTION** (1).

stepped-up basis. See **BASIS**.

stepped-up visitation. See **VISITATION**.

step-rate-premium insurance. See **INSURANCE**.

stepsister. See **SISTER**.

step-transaction doctrine. (1951) A method used by the Internal Revenue Service to determine tax liability by viewing the transaction as a whole and disregarding one

and to inspect relevant documents. At trial, if a party calls a witness who has not been previously identified, the witness's testimony may be excluded if it would unfairly surprise and prejudice the other party. And if a party has diligently prepared the case and is nevertheless taken by surprise on a material point at trial, that fact can sometimes be grounds for a new trial or for relief from the judgment under Rules 59 and 60 of the Federal Rules of Civil Procedure.

► **unfair surprise.** See UNFAIR SURPRISE.

surprise witness. See WITNESS.

surrebuttal (sər-ri-bət-əl). (1853) The response to the opposing party's rebuttal in a trial or other proceeding; a rebuttal to a rebuttal <called two extra witnesses in surrebuttal>. — **surrebut**, *vb.*

surrebutter (sər-ri-bət-ər). *Common-law pleading.* (17c) The plaintiff's answer of fact to the defendant's rebutter.

surrejoinder (sər-ri-joyn-dər). *Common-law pleading.* (16c) The plaintiff's answer to the defendant's rejoinder. See REPLICATION; PLEADING (quot.). — **surrejoin**, *vb.*

"Where the common-law system of pleading is in force, the pleadings do not terminate with the plaintiff's replication. The defendant may interpose a rejoinder to the replication, and the plaintiff a surrejoinder to the defendant's rejoinder. Then follows the rebutter, which in turn may be met by a surrebutter." 61A Am. Jur. 2d Pleading § 193, at 192 (1981).

surrender, n. (15c) 1. The act of yielding to another's power or control.

► **voluntary surrender.** (17c) *Criminal law.* A defendant's surrender to law-enforcement officers without the need for their pursuing the defendant in any further way.

2. The giving up of a right or claim; RELEASE (1). 3. The return of an estate to the person who has a reversion or remainder, so as to merge the estate into a larger estate. Cf. MERGER (4).

"Merger bears a very near resemblance, in circumstances and effect, to a surrender; but the analogy does not hold in all cases, though there is not any case in which merger will take place, unless the right of making and surrender resided in the parties between whom the merger takes place. To a surrender, it is requisite that the tenant of the particular estate should *relinquish* his estate in favor of the tenant of the next vested estate, in remainder or reversion. But merger is confined to the cases in which the tenant of the estate in reversion or remainder grants that estate to the tenant of the particular estate, or in which the particular tenant grants his estate to him in reversion or remainder. Surrender is the act of the party, and merger is the act of the law." 4 James Kent, *Commentaries on American Law* *100 (George Comstock ed., 11th ed. 1866).

4. *Commercial law.* The delivery of an instrument so that the delivery releases the deliverer from all liability. 5. A tenant's relinquishment of possession before the lease has expired, allowing the landlord to take possession and treat the lease as terminated. — Also termed (in sense 5) *surrender of term*. — **surrender**, *vb.*

► **express surrender.** (17c) The relinquishment of leased property occurring when the tenant signs a written agreement to terminate the lease early.

► **implied surrender.** (18c) Surrender shown by the actions of both the tenant and the landlord, as when the tenant vacates the property and the landlord reoccupies it.

surrender by bail. (18c) A surety's delivery of a prisoner, who had been released on bail, into custody.

surrender by operation of law. (1836) An act that is an equivalent to an agreement by a tenant to abandon property and the landlord to resume possession, as when the parties perform an act so inconsistent with the landlord-tenant relationship that surrender is presumed, or when a tenant performs some act that would not be valid if the estate continued to exist.

surrender clause. (1900) *Oil & gas.* A provision commonly found in oil-and-gas leases authorizing a lessee to release its rights to all or any portion of the leased property at any time and to be relieved of further obligations on the acreage surrendered.

surrenderer. (17c) One to whom a surrender is made. See SURRENDER.

surrenderer. See SURRENDEROR.

surrender of a criminal. (18c) An officer's delivery of a prisoner to the authorities in the appropriate jurisdiction. See EXTRADITION; RENDITION.

surrender of a preference. (1900) *Bankruptcy.* The yielding of a voidable conveyance, transfer, assignment, or encumbrance by a creditor to the trustee as a condition of allowing the creditor's claim.

surrender of charter. (1836) *Corporations.* The dissolution of a corporation by a formal yielding of its charter to the state under which it was created and the subsequent acceptance of that charter by the state.

"The surrender of a charter can be made only by some formal, solemn act of the corporation, and will be of no avail until accepted by the government. There must be the same agreement of the parties to dissolve that there was to form the compact. It is the acceptance which gives efficacy to the surrender. Consent of the state is sometimes given by general statute." 19 Am. Jur. 2d Corporations § 2738, at 546 (1986).

surrender of copyhold. (17c) *Hist.* The transfer by a tenant of a copyhold estate by yielding it to the lord in trust for the transferee according to the terms in the surrender.

• In normal practice, the tenant went to the steward of the manor and delivered a rod, a glove, or other customary symbol, thereby conveying to the lord (through the steward) all interest and title to the estate, in trust, to be then granted by the lord to the transferee. See COPYHOLD.

surrender of term. See SURRENDER (5).

surrenderor. (17c) Someone who surrenders; esp., one who yields up a copyhold estate for conveyance. — Also spelled *surrenderer*. See COPYHOLD.

surrender to uses of will. (1821) *Hist.* A required yielding of a copyhold interest passed by will to the will's uses.

• The requirement was abolished by St. 55 Geo. 3, ch. 192.

surrender value. See *cash surrender value* under VALUE (2).

surreply. (17c) A movant's second supplemental response to another party's opposition to a motion, usu. in answer to a surresponse. • In most jurisdictions, a party must seek leave of court before filing a surreply. — Sometimes written *sur-reply*. Cf. SURRESPONSE.

► **surreptitious** (sər-əp-tish-əs), *adj.* (15c) (Of conduct) unauthorized and clandestine; done by stealth and without legitimate authority <surreptitious interception of electronic communications is prohibited under wiretapping laws>.

• This is considered a penumbral rather than explicit right under the U.S. Constitution. See the Declaration of Independence § 2 (1776).

happy-slapping. (2005) *Slang.* An assault on a randomly chosen victim by a person or group while another person films the assault with the intention of later broadcasting copies of the recording. • Happy-slapping began in the early 2000s as a fad in London, in which a teenage victim was merely slapped or struck with an object such as a rolled-up newspaper while the assault was recorded on a cellphone camera. As the fad spread across England and into Europe, the perpetrators attacked victims of all ages, and the assaults occasionally escalated from mere slaps to serious bodily injury, rape, and even murder. — happy-slap, *vb.*

hara-kiri swap. See INTEREST-RATE SWAP.

harassment (hə-ras-mənt or har-əs-mənt). (18c) Words, conduct, or action (usu. repeated or persistent) that, being directed at a specific person, annoys, alarms, or causes substantial emotional distress to that person and serves no legitimate purpose; purposeful vexation. • Harassment is actionable in some circumstances, as when a creditor uses threatening or abusive tactics to collect a debt. — harass (hə-ras or har-əs), *vb.*

► **discriminatory harassment.** Harassment that denigrates, shows hostility to, or exhibits aversion toward a person or group (esp. of a protected class), thereby creating a hostile environment that unreasonably interferes with learning, living, or working. • Sexual harassment and gender-based harassment are forms of discriminatory harassment. See *gender-based harassment*; SEXUAL HARASSMENT.

► **gender-based harassment.** Harassment motivated by hostility and intended to enforce traditional heterosexual norms and roles and discourage what is seen as nontraditional behavior. See *discriminatory harassment*.

► **hostile-work-environment harassment.** See *hostile-environment sexual harassment* under SEXUAL HARASSMENT.

► **quid pro quo harassment.** See *quid pro quo sexual harassment* under SEXUAL HARASSMENT.

► **same-sex harassment.** See *same-sex sexual harassment* under SEXUAL HARASSMENT.

► **sexual harassment.** See SEXUAL HARASSMENT.

harbinger (hahr-bin-jər), *n.* (14c) 1. *Hist. English law.* A royal officer who went ahead and was responsible for securing lodging for troops or for a traveling royal entourage. 2. A person or thing that predicts what is to come <a harbinger of bad news>.

harbor, safe. See SAFE HARBOR.

harboring, *n.* (14c) The act of affording lodging, shelter, or refuge to a person, esp. a criminal or illegal alien.

harboring a criminal. See HARBORING A FUGITIVE.

harboring a fugitive. (1934) *Criminal law.* The crime of affording lodging, shelter, refuge, or other aid to a person seeking to avoid capture or punishment. • If the fugitive is suspected of committing a felony or has been convicted of a felony and has violated his or her parole or probation conditions, the term *harboring a felon* is commonly

used. — Also termed *harboring a criminal*; *harboring an offender*.

harboring an illegal alien. (1974) The act of providing concealment from detection by law-enforcement authorities or shelter, employment, or transportation to help a noncitizen remain in the United States unlawfully, while knowing about or recklessly disregarding the noncitizen's illegal immigration status. • The crime of harboring an illegal alien does not require that the offender be involved in the smuggling of illegal aliens into the country. 8 USCA § 1324.

harboring an offender. See HARBORING A FUGITIVE.

harbor line. (1849) A line marking the boundary of a certain part of public water that is reserved for a harbor; esp., the line beyond which wharves and other structures may not extend.

hard, *adj.* 1. (Of a market) having prices that are rising. 2. (Of a currency) having excess demand and therefore tending to rise in value in relation to other currencies.

hard asset. See *real asset* under ASSET.

hardball, *adj.* Ruthless; uncompassionate. • Taken from the baseball term, *hardball* is distinguished from *softball*, which is played with a softer and bigger ball, making for an easier game and a more remote possibility of injury.

hard bargain. See BARGAIN.

hard case. (1836) 1. A lawsuit involving equities that tempt a judge to stretch or even disregard a principle of law at issue. • Hence the expression, "Hard cases make bad law." 2. A lawsuit in which no clear rule obviously governs the outcome.

"It is an old saying that 'hard cases make bad law.' Its original meaning concerned cases in which the law had a hard impact on some person whose situation aroused sympathy. In such cases there was an inevitable, and often strong, temptation to offer a strained interpretation of the law to avoid the hard effect in the individual case. The slogan 'hard cases make bad law' amounted to an exhortation to refrain from bending the law on account of exceptional individual hardship. . . . 'Hard case' has over the past few decades changed its meaning, under the influence of Ronald Dworkin, who suggests (in effect) that such cases provide occasions to make good law. A hard case is now understood as a case where some difficulty of interpreting the law has arisen, where there are strong arguments for each of the rival understandings or interpretations of the law put forward by or on behalf of the parties." Neil MacCormick, *Rhetoric and the Rule of Law: A Theory of Legal Reasoning* 49-50 (2005).

hard commodity. See COMMODITY.

hard currency. See CURRENCY.

hard dollars. 1. Cash proceeds given to a seller. 2. The part of an equity investment that is not deductible in the first year. Cf. SOFT DOLLARS.

hard goods. See *durable goods* under GOODS.

hard intellectual property. See INTELLECTUAL PROPERTY.

hard labor. (18c) Work imposed on prisoners as additional punishment, usu. for misconduct while in prison. • Several states (such as Louisiana, Maine, and New Jersey) impose hard labor as a sentence for a variety of crimes. Hard labor is also imposed in military sentencing. See PENAL SERVITUDE.

hard-look doctrine. (1979) *Administrative law.* The principle that a court should carefully review an

EXHIBIT L

Bouvier Law Dictionary Stalking (Stalk or Stalker)

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The Wolters Kluwer Bouvier Law Dictionary Desk Edition

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Bouvier Law
stalk p.1

Author

Stephen Michael Sheppard

Stalking (Stalk or Stalker)

Persistent observation of a person that poses a threat or harassment. Stalking is a crime committed by a person whose conduct—which may include communications, visits, attempts to visit, attempts to observe or be seen, or positioning near to another whether seen or not—is not desired or encouraged by the person to whom it is directed, and whose conduct would cause a reasonable person to feel harassed, frightened, intimidated, or threatened, and whose conduct does cause the person to whom it is directed to feel harassed, frightened, intimidated, or threatened. Definitions vary widely among jurisdictions, but a common denominator is that the crime is not one of intent to cause such a condition in the victim or knowledge that the conduct would do so.

Derivation: As used in this chapter, “stalk” means a knowing or an intentional course of conduct involving repeated or continuing harassment of another person that would cause a reasonable person to feel terrorized, frightened, intimidated, or threatened and that actually causes the victim to feel terrorized, frightened, intimidated, or threatened. Ind. Code Ann. §35-45-10-1 (West 2004).

Prior to 1999, the Colorado stalking statute included only “credible threat” provisions. §18-9-111(4)(b)(I), (II), C.R.S. (2005). During its 1999 session, the General Assembly added to the statutorily defined stalking offenses the offense of harassment by stalking-serious emotional distress. §18-9-111(4)(b)(III); see 1999 Colo. Sess. Laws, Ch. 215, sec. 1, at 793, 800. Section 18-9-111(4)(b)(III), C.R.S. (2005), provides as follows: (b) A person commits stalking if directly, or indirectly through another person, such person knowingly: ... (III) Repeatedly follows, approaches, contacts, places under surveillance, or makes any form of communication with another person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship in a manner that would cause a reasonable person to suffer serious emotional distress and does cause that person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship to suffer serious emotional distress. (emphasis added). This form of the stalking offense does not contain the “credible threat” element. Rather, it focuses on behavior and provides that a stalker commits a crime if he or she repeatedly follows, approaches, places under surveillance, or communicates with a victim in a manner that would cause a reasonable person to suffer serious emotional distress and the defendant's conduct causes the victim serious emotional distress. At the same time it adopted section 18-9-111(4)(b)(III), the legislature adopted an extensive statement of purpose: The general assembly hereby finds and declares that stalking is a serious problem in this state and nationwide. Although stalking often involves persons who have had an intimate relationship with one another, it can also involve persons who have little or no past relationship. A stalker will often maintain strong, unshakable, and irrational emotional feelings for his or her victim, and may likewise believe that the victim

either returns these feelings of affection or will do so if the stalker is persistent enough. Further, the stalker often maintains this belief, despite a trivial or nonexistent basis for it and despite rejection, lack of reciprocation, efforts to restrict or avoid the stalker, and other facts that conflict with this belief.... Because stalking involves highly inappropriate intensity, persistence, and possessiveness, it entails great unpredictability and creates great stress and fear for the victim. Stalking involves severe intrusions on the victim's personal privacy and autonomy, with an immediate and long-lasting impact on quality of life as well as risks to security and safety of the victim and persons close to the victim, even in the absence of express threats of physical harm. The general assembly hereby recognizes the seriousness posed by stalking and adopts the provisions of this subsection (4) and subsections (5) and (6) of this section with the goal of encouraging and authorizing effective intervention before stalking can escalate into behavior that has even more serious consequences. §18-9-111(4)(a), C.R.S. (2005); 1999 Colo. Sess. Laws, Ch. 215, sec. 1, at 792-793, 800. This addition of section 18-9-111(4)(b)(III) and the accompanying legislative declaration of policy accorded with a national trend recognizing that stalking (1) was more prevalent than previously thought and (2) did not always entail concrete threats to a victim's physical safety. In 1998, the United States Department of Justice in conjunction with the National Center for Disease Control and Prevention reported the results of the "first-ever national study on stalking." Patricia Tjaden & Nancy Thoennes, Stalking in America: Findings from the National Institute Violence Against Women Survey, Res. in Brief (Nat'l Inst. of Just. & Ctrs. for Disease Control & Prevention), April 1998, at 1, available at <http://www.ncjrs.org/pdffiles/169592.pdf>. According to the survey, 8% of women and 2% of men had been stalked at some point in their lifetime. Id. at 2. Seventy-eight percent of stalking victims were female and 87% of stalking perpetrators were male. Id. Twenty-three percent of female victims and 36% of male victims were stalked by strangers. Id. Women were more likely than men to report that their stalkers followed them, spied on them, or stood outside their homes, places of business, or places of recreational activity. Id. at 7. Approximately equal percentages of men and women reported that stalkers sent them unwanted correspondence, vandalized property, or killed or threatened to kill family pets. Id. The report concluded that state anti-stalking statutes restricting the crime to "credible threat" circumstances were "ill-advised" because, even in the absence of a credible threat, victims can experience great fear as a result of the perpetrator's conduct. "[S]talking victims in [the] survey were either very frightened of their assailant's behavior or feared their assailant would seriously harm or kill them or someone close to them," but less than half the victims surveyed reported being directly threatened by their stalker. Id. at 7-8. This finding shows that stalkers do not always threaten their victim verbally or in writing; more often they engage in a course of conduct that, taken in context, causes a reasonable person to feel fearful. Id. at 8. Based on the wording of section 18-9-111(4)(b)(III) and the accompanying legislative statement of policy, we determine that the General Assembly added in 1999 a new provision that defined the offense of stalking that did not include the credible threat requirement and does not require that the stalker be aware his or her conduct would cause serious emotional distress to a reasonable person. State v. Cross, 127 P.3d 71, 74-76 (Colo. 2006) (Hobbs, J.) (en banc).

Usage: From this fact, the jury could have inferred that respondent had been stalking the victim from the time she first left her apartment. Morris v. Slappy, 461 U.S. 1, 4 (1983) (Burger, C.J.).

See also: Harassment.



EXHIBIT M



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engaging in a pattern of conduct that will knowingly cause another to believe that the offender will cause physical harm to the other person or cause mental distress to the other person.

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harassment

(either harriss-meant or huh-rass-meant) n. the act of systematic and/or continued unwanted and annoying actions of one party or a group, including threats and demands. The purposes may vary, including racial prejudice, personal malice, an attempt to force someone to quit a job or grant sexual favors, apply illegal pressure to collect a bill or merely gain sadistic pleasure from making someone anxious or fearful. Such activities may be the basis for a lawsuit if due to discrimination based on race or sex, a violation on the statutory limitations on collection agencies, involve revenge by an ex-spouse, or be shown to be a form of blackmail ("I'll stop bothering you if you'll go to bed with me"). The victim may file a petition for a "stay away" (restraining) order, intended to prevent contact by the offensive party. A systematic pattern of harassment by an employee against another worker may subject the employer to a lawsuit for failure to protect the worker.

See also: [harass \(Default.aspx?selected=852\)](#), [sexual harassment \(Default.aspx?selected=1944\)](#)

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