No. 123186

IN THE SUPREME COURT OF ILLINOIS

STACY ROSENBACH, as Mother and Next Friend of Alexander Rosenbach, individually and as the representative of a class of similarly situated persons,

Plaintiff-Appellant,

v.

SIX FLAGS ENTERTAINMENT CORPORATION and GREAT AMERICA LLC,

Defendants-Appellees.

On Appeal from the Appellate Court of Illinois, Second District, No. 2-17-0317, there on Appeal from the Circuit Court of Lake County, Illinois, No. 2016-CH-13, the Honorable Luis A. Berrones, Judge Presiding

BRIEF FOR DEFENDANTS-APPELLEES

Debra R. Bernard
PERKINS COIE LLP
131 South Dearborn Street, Suite 1700
Chicago, IL 60603
(312) 324-8400
DBernard@perkinscoie.com

Kathleen M. O'Sullivan
PERKINS COIE LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101
(206) 359-8000
KOSullivan@perkinscoie.com

Counsel for Defendants-Appellees

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Carolyn Taft Grosboll
SUPREME COURT CLERK

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NATURE OF THE CASE

The Illinois Biometric Information Privacy Act ("BIPA" or the "Act") provides a right of action to "any person aggrieved by a violation of [the] Act." 740 ILCS 14/20. Answering certified questions, the Second District Appellate Court concluded that an individual "must allege some actual harm" to be "a 'person aggrieved'" by a BIPA violation. *Rosenbach v. Six Flags Entm't Corp.*, 2017 IL App (2d) 170317, ¶ 1. The Second District emphasized that, "for *any* of [BIPA's] remedies to come into play," the plaintiff must allege some "injury or adverse effect." *Id.* ¶ 28. This Court should affirm.

BIPA affords a cause of action only to an individual who is "aggrieved." The word "aggrieved" means "adversely affected" or "harmed." Consistent with the ordinary meaning of the term, the General Assembly and courts have consistently defined "aggrieved" to require an actual injury, and thus an alleged statutory violation is insufficient to invoke the private right of action if the plaintiff does not allege that the violation injured him. If the legislature had intended to permit uninjured individuals to sue for BIPA violations, it could have authorized suits by any "person" or any "customer." Instead, it limited BIPA's right of action to "aggrieved" individuals.

This straightforward interpretation of the term "aggrieved" is further supported by the statutory language as a whole. The Act creates a private right of action for individuals "aggrieved by a violation" of its provisions. The fact (or allegation) of a violation is therefore insufficient to invoke the right of action; instead, the plaintiff must also plead and ultimately prove that he was aggrieved by that violation. Permitting the violation itself to suffice as establishing that the plaintiff was "aggrieved" would render that statutory term superfluous. And if the General Assembly did not intend to impose

any limitations on the right of action beyond the alleged violation, it could simply have stated that any entity collecting biometric data would be liable for a "violation." The General Assembly's decision to require any plaintiff to have been "aggrieved," and further to have been "aggrieved by a violation" of the Act, thus confirms that the private right of action is available only where the plaintiff has been injured by a BIPA violation.

Because the text of the Act is clear, this Court need not resort to legislative intent to interpret it. Yet the history and purpose of BIPA confirm that the Act requires actual injury as a predicate for invoking the private right of action.

The Act was prompted by concerns about the dissemination of biometric data following the bankruptcy of a company that had collected the data. The General Assembly acknowledged in legislative findings its concern that Illinoisans might be deterred from engaging in biometric-facilitated transactions given the risk of improper dissemination. Yet the General Assembly recognized the potential importance of biometric technology in facilitating financial transactions and security screening, and sought to promote that technology. Thus, BIPA strikes a balance between the desire to encourage the use of biometric technology and the need to provide appropriate protections against its improper dissemination: The Act protects consumers' data while allowing parties to determine for themselves how that data may be used.

The Court should affirm.

STATEMENT OF THE ISSUES

The circuit court certified the following two questions to the Second District under Illinois Supreme Court Rule 308:

1. Whether an individual is an aggrieved person under §20 of the Illinois Biometric Information Privacy Act, 740 ILCS 14/20, and may seek statutory liquidated damages authorized under §20(1) of the Act when the only injury he alleges is a violation of §15(b) of the Act by a private entity who collected his biometric identifiers and/or biometric information without providing him the required disclosures and obtaining his written consent as required by §15(b) of the Act.

2. Whether an individual is an aggrieved person under §20 of the Illinois Biometric Information Privacy Act, 740 ILCS 14/20, and may seek injunctive relief authorized under §20(4) of the Act, when the only injury he alleges is a violation of §15(b) of the Act by a private entity who collected his biometric identifiers and/or biometric information without providing him the required disclosures and obtaining his written consent as required by §15(b) of the Act.

FACTS AND PROCEDURAL HISTORY

A. Statutory Background

Enacted in 2008, BIPA provides standards of conduct governing private entities' collection and possession of biometric identifiers and biometric information. 740 ILCS 14/15. The General Assembly noted that "[t]he use of biometrics is growing in the business and security screening sectors and appears to promise streamlined financial transactions and security screenings." 740 ILCS 14/5(a). At the same time, however, the legislature was concerned that "once [an individual's biometric data is] compromised, the individual has no recourse, is at heightened risk for identity theft, and is likely to withdraw from biometric-facilitated transactions," 740 ILCS 14/5(c); it acknowledged that "many members of the public are deterred from partaking in biometric identifier-

facilitated transactions" as a result, 740 ILCS 14/5(e). The General Assembly thus sought to promote the use of biometric data, and reduce this deterrent effect, "by regulating the collection, use, safeguarding, handling, storage, retention, and destruction of biometric identifiers and information." 740 ILCS 14/5(g).

The Act defines a "biometric identifier" as "a retina or iris scan, fingerprint, voiceprint, or scan of hand or face geometry." 740 ILCS 14/10. "'Biometric information' means any information . . . based on an individual's biometric identifier used to identify an individual." *Id.*

BIPA requires private entities to develop a written policy, made available to the public, establishing a retention schedule and guidelines for destruction of biometric data. 740 ILCS 14/15(a). It also requires private entities who collect or purchase biometric data to (1) inform consumers that the data is being collected or stored; (2) inform consumers of the purpose and length of the collection and storage; and (3) obtain written consent to collect the data. 740 ILCS 14/15(b). It expressly prohibits private entities from selling the data and forbids disclosure of the data without consent or other authorization. 740 ILCS 14/15(c)–(d). BIPA also requires "using the reasonable standard of care within the private entity's industry" to store and protect the data. 740 ILCS 14/15(e).

BIPA creates a right of action for individuals who have been "aggrieved" by a violation of the Act's requirements. The Act provides: "Any *person aggrieved by a violation of this Act* shall have a right of action in a State circuit court or as a supplemental claim in federal district court against an offending party." 740 ILCS 14/20

(emphasis added). While BIPA has a definitions section, it does not contain a definition of "aggrieved" or "person aggrieved." *See* 740 ILCS 14/10.

If an individual is "aggrieved by a violation" of BIPA and successfully brings suit under the Act, then the individual may recover for each violation:

> (1) against a private entity that negligently violates a provision of this Act, liquidated damages of $1,000 or actual damages, whichever is greater;
>
> (2) against a private entity that intentionally or recklessly violates a provision of this Act, liquidated damages of $5,000 or actual damages, whichever is greater;
>
> (3) reasonable attorneys' fees and costs, including expert witness fees and other litigation expenses; and
>
> (4) other relief, including an injunction, as the State or federal court may deem appropriate.

740 ILCS 14/20.

B. Plaintiff's Allegations

In preparation for a visit to Six Flags Great America in Gurnee, Illinois, in 2014, Plaintiff purchased a season pass for her teenage son Alexander. C009 ¶¶ 20–22. When Plaintiff purchased her son's pass online, the website pages that she accessed included a description of Six Flags' "Biometric Season Passes." C008 ¶ 17. Upon arrival at the park, Alexander went to the security checkpoint and "was asked to scan his thumb" on Six Flags' fingerscan system, which he did. C009 ¶ 23.[1] He then obtained a season pass card to be used in conjunction with his fingerscan to gain access to the park. *Id.* ¶ 24.

In 2016, Plaintiff filed a class action lawsuit against Six Flags Entertainment Corporation, and later filed an Amended Complaint (the "Complaint") to add Great

[1] A fingerscan is not a fingerprint. Rather, the scan converts an image of a finger into unique numerical templates, which contain no identifying information. C497.

America LLC as a defendant. Plaintiff alleges that defendants (collectively, "Six Flags") collected and stored her son's biometric data in violation of BIPA. C015 ¶ 49. Specifically, Plaintiff alleges that Six Flags did not make a written retention policy publicly available; did not inform Plaintiff or her son in writing that biometric information was being collected or stored or the purpose and length of term for which biometric information was being collected, stored, and used; and did not obtain written consent from Plaintiff or her son. C009–C010 ¶¶ 26–30; C015–C016 ¶¶ 51, 53–54. Plaintiff raises these allegations on behalf of her son and a putative class, and defines the class to include "[a]ll persons fingerprinted at the Great America theme park in Gurnee, IL." C012 ¶ 39.

As relevant here, the Complaint seeks damages and injunctive relief under BIPA. C014–C018 ¶¶ 45–69. With respect to damages, Plaintiff alleges that she and the putative class "are entitled to the maximum applicable statutory or actual damages provided under BIPA." C016 ¶ 56.

Plaintiff does not allege, however, that her son was deceived when Six Flags collected his fingerscan or that he did not understand that a fingerscan was being collected. She does not allege that Six Flags' website failed to disclose that it used biometric season passes. She does not allege that a data breach occurred at Six Flags. She does not allege that her son's fingerscan was sold or leased to a third party. Nor does she allege that her son's fingerscan was in any way mishandled, or that she or her son suffered any physical, pecuniary, emotional, or mental injury from his finger being scanned. Indeed, she does not allege that she or her son suffered any adverse

consequence whatsoever. She alleges only that, had she known of the fingerscan, "she never would have purchased a season pass for her son." C016 ¶ 57.

C. Six Flags' Motion To Dismiss And Certified Questions

Six Flags filed a motion to dismiss the Complaint. Six Flags argued that, under BIPA, any right of action is limited to a "person aggrieved," which excludes Plaintiff, who failed to allege that she was injured by Six Flags' conduct. The circuit court denied the motion, but later certified two questions for interlocutory appeal. Both questions ask whether an individual is "an aggrieved person," and therefore entitled to proceed under BIPA, "when the only injury he alleges is a violation of . . . the Act by a private entity who collected his . . . biometric information without providing him the required disclosures and obtaining his written consent." C002. The first question asks whether such an individual may seek liquidated damages, and the second asks whether such an individual may seek injunctive relief. *Id.*

D. The Second District's Unanimous Opinion

In a unanimous opinion, the Second District answered both questions in the negative, holding that a "person aggrieved" by a violation of the Act "must allege some actual harm." *Rosenbach*, 2017 IL App (2d) 170317, ¶ 1. Observing that the Act does not define the word "aggrieved," the Second District "look[ed] to the dictionary to ascertain the plain and ordinary meaning of the term." *Id.* ¶ 20. Black's Law Dictionary defines "aggrieved party" as "[a] party entitled to a remedy; esp., a party whose personal, pecuniary, or property rights have been *adversely affected* by another person's actions or by a court's decree or judgment." Black's Law Dictionary (10th ed. 2014) (emphasis added). Similarly, "aggrieved" is defined as "having legal rights that are *adversely*

affected; having been *harmed* by an infringement of legal rights." *Id.* (emphases added). Although Plaintiff cited these definitions in support of her reading of the Act, arguing that her son's right to privacy is a "personal right" or a "legal right" that has been "adversely affected," the Second District observed that even Plaintiff's construction suggests "that there must be an actual injury, adverse effect, or harm in order for the person to be 'aggrieved.'" *Rosenbach*, 2017 IL App (2d) 170317, ¶ 20.

The Second District further reasoned that, "if the Illinois legislature intended to allow for a private cause of action for every technical violation of the Act, it could have omitted the word 'aggrieved' and stated that every violation was actionable." *Rosenbach*, 2017 IL App (2d) 170317, ¶ 23. In other words, "[a] determination that a technical violation of the statute is actionable would render the word 'aggrieved' superfluous." *Id.* The Second District therefore concluded that "a plaintiff who alleges only a technical violation of the statute without alleging *some* injury or adverse effect is not an aggrieved person" under BIPA. *Id.*

The Second District's decision precludes a BIPA plaintiff who alleges no injury from seeking either liquidated damages or injunctive relief. "In order for *any* of [BIPA's] remedies to come into play," the Second District explained, a plaintiff must be a "person aggrieved." *Id.* ¶ 28. "If a person alleges only a technical violation of the Act without alleging any injury or adverse effect, then he or she is not aggrieved and may not recover under any of [BIPA's remedy provisions]." *Id.*

To be sure, the Second District cautioned that "the injury or adverse effect need not be pecuniary." *Id.* But "Plaintiff did not allege in her complaint any harm or injury

to a privacy right" or any other non-pecuniary harm. *Id.* ¶ 20 n.1. Accordingly, she may not recover under BIPA. *Id.* ¶ 28.

E. Petition For Leave To Appeal

Plaintiff petitioned for leave to appeal under Rule 315, and the Court allowed her petition on May 30, 2018. After Plaintiff filed her opening brief on July 5, 2018, Six Flags requested and received a 30-day extension (to September 10, 2018) to file its answering brief.

STANDARD OF REVIEW

The Court's review of an interlocutory appeal under Rule 308 is generally limited to the questions certified by the trial court. *See De Bouse v. Bayer*, 235 Ill. 2d 544, 550 (2009). Because certified questions must be questions of law rather than fact, they are reviewed *de novo*. *See id.*; *see also Barbara's Sales, Inc. v. Intel Corp.*, 227 Ill. 2d 45, 57–58 (2007).

ARGUMENT

I. Only A Person Who Suffers Actual Harm May Recover Under BIPA

The plain language of BIPA limits the right of action created by the Act to "[a]ny person aggrieved by a violation of [the] Act." 740 ILCS 14/20. Under settled principles of statutory interpretation, confirmed by the General Assembly's other enactments and the relevant caselaw, this requirement means that an individual must have suffered an actual injury from the alleged statutory violation in order to sue. A violation of the statute, without more, does not support the right of action.

A. BIPA's Plain Language Limits A Right Of Action To Persons "Aggrieved By A Violation" Of The Act

BIPA's plain language limits the right of action to "[a]ny person aggrieved by a violation of [the] Act," and therefore limits liquidated damages and injunctive relief to such persons. 740 ILCS 14/20. Thus, a plaintiff who has not been "aggrieved by a violation" of the statute has no claim for relief under the Act.

1. The Plain And Ordinary Meaning Of "Aggrieved" Requires An Actual Injury Or Adverse Effect

As the Second District noted, "[t]he certified questions revolve around whether a party is 'aggrieved'" when the complaint alleges only "a violation of [BIPA's] notice and consent requirements." *Rosenbach*, 2017 IL App (2d) 170317, ¶ 18. The court below correctly determined that, "[i]f a person alleges only a technical violation of the Act without alleging any injury or adverse effect, then he or she is not aggrieved." *Id.* ¶ 28.

In interpreting BIPA, this Court should give the "statutory language" its "plain and ordinary meaning." *Evanston Ins. Co. v. Riseborough*, 2014 IL 114271, ¶ 15. And, because BIPA does not "specifically defin[e]" the term aggrieved, "it is entirely appropriate" for the court to "look to the dictionary to ascertain the plain and ordinary meaning of the term." *People v. Chapman*, 2012 IL 111896, ¶ 24; *see also Rosenbach*, 2017 IL App (2d) 170317, ¶ 20.

In the legal context, "aggrieved" means "having legal rights that are *adversely affected*"—that is, "having been *harmed* by an infringement of legal rights." Black's Law Dictionary 80 (10th ed. 2014) (emphases added). An "aggrieved party," similarly, refers to a "party entitled to a remedy; esp., a party whose personal, pecuniary, or property rights have been *adversely affected* by another person's actions or by a court's

decree or judgment." *Id.* at 1297 (emphasis added). As these definitions demonstrate, an individual must be "adversely affected"—that is, "harmed"—by the alleged violation of his or her legal rights in order to be "aggrieved." *See Rosenbach*, 2017 IL App (2d) 170317, ¶ 20 ("there must be an actual injury, adverse effect, or harm in order for the person to be 'aggrieved'").

In addition to the Second District, federal courts have turned to Black's Law Dictionary in construing the word "aggrieved," and concluded that violation of a statutory provision, without more, would not constitute an "advers[e]" effect or "injury," and thus would not result in an individual being "aggrieved." *McCollough v. Smarte Carte, Inc.*, No. 16 C 03777, 2016 WL 4077108, at *4 (N.D. Ill. Aug. 1, 2016) (interpreting BIPA, consistent with Black's definition, to require pleading of "an injury or adverse effect"); *see also Vigil v. Take-Two Interactive Software, Inc.*, 235 F. Supp. 3d 499, 520 (S.D.N.Y. 2017) ("The court's analysis in *McCollough* is persuasive."), *vacated in part on other grounds sub nom. Santana v. Take-Two Interactive Software, Inc.*, 717 F. App'x 12 (2d Cir. 2017). These courts correctly determined that "an injury or adverse effect" is necessary for an individual to be "aggrieved" by an alleged statutory violation. As the Wisconsin Supreme Court has recognized, the terms "aggrieved" and "injured" are "nearly synonymous" and "interchangeable." *Liebovich v. Minn. Ins. Co.*, 2008 WI 75, ¶ 37; *see also Avudria v. McGlone Mortg. Co.*, 2011 WI App 95, ¶ 25 ("'aggrieve' means 'to inflict injury upon'" (citations omitted)).

Plaintiff protests that Black's Law Dictionary is not an "ordinary dictionary," Br. 35, but this Court has repeatedly relied on Black's to discern the "ordinary and

popularly understood meanin[g]" of words, *People v. Cardamone*, 232 Ill. 2d 504, 513 (2009); *see also*, *e.g.*, *People v. Hari*, 218 Ill. 2d 275, 292 (2006); *People v. Woodrum*, 223 Ill. 2d 286, 309–10 (2006). Indeed, according to Westlaw, this Court has cited Black's Law Dictionary more than 350 times. It is hardly surprising that the Court would consult a *law dictionary* to interpret the legislature's choice of words in enacting a *law*.

In any event, the definition provided by Black's is confirmed by consulting an "ordinary dictionary," as Plaintiff invites this Court to do. Webster's New International Dictionary, for example, defines "aggrieved" as "1. troubled or distressed in spirit[;] 2a. showing grief, injury, or offense[;]" and "2b. having a grievance, *specif*: suffering from an infringement or denial of legal rights." Webster's New International Dictionary 41 (3d ed. 1981). Webster's definition of "aggrieve," and the example usage it provides, confirm the term's focus on injury: "to inflict injury upon: OPPRESS, WRONG <provisions should be made for recourse to the courts by parties who may be *aggrieved* by such orders—S.T. Powell>." Earlier this year, the New Jersey Supreme Court cited Webster's definition (as well as Black's) in concluding that an "'aggrieved consumer' is a consumer who has been harmed by a violation of [a New Jersey statute]." *Spade v. Select Comfort Corp.,* 181 A.3d 969, 980 (N.J. 2018).

Similarly, the Oxford English Dictionary defines "aggrieved" by reference to an injury: "[i]njured or wronged in one's rights, relations, or position" or "injuriously affected by the action of any one." 1 The Compact Edition of the Oxford English Dictionary 182 (1984). And the dictionary defines the phrase "[t]o be aggrieved," which appears in the definition of "aggrieve," as "to be injuriously affected." *Id.*

By contrast, Plaintiff offers (Br. 35) the following definition of "aggrieved": "deprived of legal rights or claims." The Random House College Dictionary 26 (Jess Stein *et al.* eds., 1st ed. 1984) (second definition). Plaintiff also cites Dictionary.com, which provides a definition identical to the one in The Random House College Dictionary. As an initial matter, neither Plaintiff nor her son satisfy this definition. The only "right" created by BIPA is the "right of action" provided in Section 20; indeed, that is the only place that the Act uses the term "right." Section 15, in contrast, does not create a right but rather imposes legal obligations on "private entit[ies]" that collect biometric data, 740 ILCS 14/15. "Statutes that focus on the person regulated rather than the individuals protected create 'no implication of an intent to confer rights on a particular class of persons.'" *Alexander v. Sandoval*, 532 U.S. 275, 289 (2001) (quoting *California v. Sierra Club*, 451 U. S. 287, 294 (1981)).

Further, the Random House definition does not state that an individual would be "aggrieved" if he or she did not suffer any injury, and the first definition in Random House ("wronged, offended, or injured") demonstrates otherwise. *See* The Random House College Dictionary, *supra*, at 26. The dictionary also lists "abused, harmed, wounded" as synonyms for "aggrieved." *Id.* And the term "aggrieve" is defined as "to oppress or wrong grievously; injure by injustice." *Id.* These definitions make clear that "aggrieved" connotes an injury, and that the definition cited by Plaintiff does not mean that an alleged statutory violation suffices for an individual to be aggrieved unless that violation causes injury to the individual. The "ordinary" definition of the word thus

undermines Plaintiff's argument and confirms Black's definition of "aggrieved" as requiring an element of actual harm.[2]

The plain and ordinary meaning of "aggrieved" in BIPA is further confirmed by the General Assembly's definition of that term in other statutes, which consistently require some injury beyond a statutory violation for a party to be aggrieved. *See Hartney Fuel Oil Co. v. Hamer*, 2013 IL 115130, ¶ 25 ("a court may consider similar and related enactments" to "further constru[e] . . . a statute"). Under the Illinois Human Rights Act, for example, "'[a]ggrieved party' means a person who is alleged or proved to *have been injured* by a civil rights violation or believes he or she *will be injured* by a civil rights violation under Article 3 that is about to occur." 775 ILCS 5/1–103(B) (emphases added). The "civil rights violation" alone does not make the target of that violation "aggrieved" unless the violation results (or will result) in an "injur[y]." Similarly, the Soil and Water Conservation District Act provides that "'aggrieved party' means any person whose property, resources, interest or responsibility is being *injured or impeded* in value or utility or any other manner by the adverse effects of sediment caused by soil erosion." 70 ILCS 405/3.20 (emphasis added). The "soil erosion" alone does not make any individual "aggrieved," even if the erosion occurs because of a statutory or regulatory violation, unless the individual's interests have been "injured or impeded." Similarly here, an individual is not "aggrieved" simply because a violation of BIPA has occurred

[2] Six Flags has compiled the relevant excerpts from the dictionaries cited above into an addendum for the Court. *See* A001–A014.

with respect to that individual's biometric data; instead, the individual is "aggrieved" only if the BIPA violation results in an injury to that individual.

In stark contrast, when the General Assembly intends to permit a plaintiff to sue based on any violation of the statute—regardless of whether he has suffered an injury—it omits any requirement that an individual be "aggrieved" by the statutory violation and thus makes clear that the private right of action sweeps more broadly. In the Illinois Cable and Video Customer Protection Law, for example, the General Assembly provided that "[*a*]*ny customer*, the Attorney General, or a local unit of government may pursue alleged violations of this Act by the cable or video provider in a court of competent jurisdiction." 220 ILCS 5/22-501(r)(4) (emphasis added).[3] The customer need not be "aggrieved" by an alleged statutory violation in order to pursue a lawsuit against a cable or video provider. In BIPA, however, the General Assembly chose to limit the universe of potential plaintiffs by requiring that they be "aggrieved" by a biometric-data violation.

[3] Federal privacy statutes use similar language to confer a right to sue absent any injury beyond the statutory violation itself. *See*, *e.g.*, 12 U.S.C. § 3417 (Right to Financial Privacy Act) ("Any agency or department of the United States or financial institution obtaining or disclosing financial records or information contained therein in violation of this chapter is *liable to the customer* to whom such records relate . . . ." (emphasis added)); 15 U.S.C. § 1640 (Truth in Lending Act) ("[A]ny creditor who fails to comply with any requirement imposed under this part . . . with respect to any person is *liable to such person* . . . ." (emphasis added)); *id.* § 1681n(a) (Fair Credit Reporting Act) ("Any person who willfully fails to comply with any requirement imposed under this subchapter with respect to any consumer is *liable to that consumer* . . . ." (emphasis added)); *id.* § 1692k (Fair Debt Collection Practices Act) ("[A]ny debt collector who fails to comply with any provision of this subchapter with respect to any person is *liable to such person* . . . ." (emphasis added)); *id.* § 1693m (Electronic Fund Transfers Act) ("[A]ny person who fails to comply with any provision of this subchapter with respect to any consumer . . . is *liable to such consumer* . . . ." (emphasis added)).

Curiously, although Six Flags repeatedly cited these statutes in its briefing below, *see* Appellants' Br. 13, Appellants' Reply Br. 9, Plaintiff does not address them in her brief before this Court. Instead, she relies on the Uniform Commercial Code (810 ILCS 5/2A–402(c)) and the Mortgage Act (765 ILCS 905/4), which Plaintiff says create a "right to a legal remedy" that is "completely independent of whether the 'aggrieved party' has . . . suffered any adverse effect other than the violation of rights." Br. 38. This is incorrect, as the Second District recognized. *See Rosenbach*, 2017 IL App (2d) 170317 ¶¶ 24–25.

The UCC provides that an "aggrieved party" may suspend its performance under a lease contract if the other party "repudiates [the] lease contract with respect to a performance not yet due under the lease contract, the loss of which performance will substantially impair the value of the lease contract." 810 ILCS 5/2A–402. This provision plainly *does* require an injury: It "unambiguously identifies a concrete harm, *i.e.*, the diminished value of the lease contract." *Rosenbach*, 2017 IL App (2d) 170317, ¶ 24. The "aggrieved party" is not "aggrieved" simply because of the other party's repudiation, but rather because the "loss of [the] performance" subject to the repudiation "will *substantially impair the value* of the lease contract." 810 ILCS 5/2A–402 (emphasis added).

The Mortgage Act provides that a mortgagee of real property must release the mortgage and record that release upon receiving full payment of the amount owed by the mortgagor, *see* 765 ILCS 905/4, and allows a "party aggrieved" by a violation of the release-and-recording requirements to recover $200 in a civil action, 765 ILCS 905/2.

Here, too, an injury is implicit in the cause of action: The owner of the real property subject to the mortgage *necessarily* suffers an injury beyond the mere fact of a release-and-recording violation if its mortgagee refuses to execute and record the release: The owner's "rights in the land are impaired by the Mortgage, and its ability to sell the property is hindered by the mortgage recording on file." *In re Gluth Bros. Constr., Inc.*, 451 B.R. 447, 452 (Bankr. N.D. Ill. 2011). Because "[t]he failure to release and record creates a tangible harm, *i.e.*, a cloud on title," *Rosenbach*, 2017 IL App (2d) 170317 ¶ 25, the Mortgage Act provides for recovery only for an individual who has actually suffered an injury caused by the statutory violation.

Thus, under both of these statutes, as in the examples discussed above, the only individuals who are "aggrieved"—and thus permitted to invoke statutory remedies—are those who have suffered "*some* injury or adverse effect," not merely a "technical violation of the statute." *Rosenbach*, 2017 IL App (2d) 170317, ¶ 23. That is consistent with the plain and ordinary meaning of the term "aggrieved," and it further demonstrates that "a person [who] alleges only a technical violation of [BIPA] without alleging any injury or adverse effect . . . is not aggrieved and may not recover under any of the provisions in section 20." *Id.* ¶ 28.

2. Requiring An Injury Avoids Rendering Superfluous The Statutory Phrase "Person Aggrieved By A Violation"

The most natural reading of the words "person aggrieved by a violation of [the] Act" is that they are a limitation on the universe of people who may sue under BIPA. If the General Assembly had wanted to craft a more expansive right to sue, it could have authorized "any customer" or "any person" to bring suit. It did not. Instead, the

legislature granted the right to sue only to individuals "aggrieved" by a violation of the Act. 740 ILCS 14/20. Under Plaintiff's reading of the Act, however, any noncompliance with the statutory requirements is sufficient to support a lawsuit by the individual whose biometric data is involved, and thus the term "aggrieved" has no independent function in the statute. "[A]n interpretation that renders any part of that statute superfluous," however, "must be avoided." *North v. Hinkle*, 295 Ill. App. 3d 84, 89 (2d Dist. 1998).

It is similarly significant that the General Assembly qualified the term "aggrieved" with "by a violation." If any violation of the Act's requirements could support a lawsuit, then it would be unnecessary to specify that only persons aggrieved by that violation could sue. Instead, the legislature could simply have stated that a data collector would be liable *for a violation*. In this respect, Plaintiff's interpretation renders "aggrieved" superfluous, and thus "must be avoided." *North*, 295 Ill. App. 3d at 89; *see also Spade*, 181 A.3d at 979.

Plaintiff contends that the only function of the phrase "aggrieved by a violation" is to "permit persons whose rights have been violated—and no others—to sue." Br. 31. In other words, Plaintiff maintains that the phrase precludes interested strangers from filing suit. But interested strangers would lack standing to sue under BIPA even if the General Assembly had omitted the word "aggrieved." *See Maglio v. Advocate Health & Hosps. Corp.*, 2015 IL App (2d) 140782, ¶ 22 ("[s]tanding requires some injury-in-fact . . . [that] must be . . . *distinct and palpable*"). "[I]n enacting a statute," the General Assembly is "presumed" to have "acted in light of the provisions of the Constitution and intended to enact a statute not inconsistent with the Constitution." *Gill v. Miller*, 94 Ill.

2d 52, 56 (1983). In this case, the General Assembly must be presumed to have known the constitutional limits on its authority, including its authority to create private rights of action, and to have drafted BIPA with these limits in mind. If the legislature wanted to reinforce Illinois's standing requirement through limiting language in the statute, it could have limited BIPA's right of action to "customers" or "consumers." Instead, it chose to use the word "aggrieved," which—as explained above—requires some showing of injury or harm. The General Assembly's decision to limit the private right of action to "persons aggrieved by a violation"—in contrast to statutory rights of action that omit such a requirement, *see supra* at 15—therefore imposes an injury requirement that goes beyond the minimum requirements for standing.

Plaintiff attempts to counter the Second District's superfluidity reasoning by advancing a superfluidity argument of its own: The "liquidated damages provision would seem unnecessary and inappropriate if the General Assembly intended to bar actions that alleged no adverse effect other than the violation of" the Act. Br. 25. Yet the liquidated damages provision is applicable only if the plaintiff proves that the defendant acted with a particular state of mind: "negligently," 740 ILCS 14/20(1), or "intentionally or recklessly," 740 ILCS 14/20(2). The remaining provisions of Section 20 do not contain a similar limitation, and thus attorneys' fees and costs, injunctive relief, and "other relief" are available without such a showing. 740 ILCS 14/20(3)–(4). The effect of the liquidated damages provision is therefore to ensure that culpable misconduct is subject to a damages award and the additional deterrence that comes with such an award, even if the plaintiff cannot prove the precise amount of his injury. Requiring an actual injury to

invoke the private right of action in the first instance, as the statutory language demands, does not render the liquidated damages provision superfluous given this deterrence effect.

B. The Relevant Caselaw Confirms That An "Aggrieved" Person Must Have Sustained An Actual Injury

The caselaw interpreting BIPA and analogous statutes confirms the plain and ordinary meaning of "aggrieved": A would-be plaintiff must have suffered an actual injury beyond the mere fact of a statutory violation in order to bring suit.

1. In *McCollough*, the plaintiff alleged that the defendant had violated BIPA by retaining her fingerprint without written consent. 2016 WL 4077108, at *1. The Northern District of Illinois dismissed the complaint, however, because the plaintiff "fail[ed] to allege sufficient facts to show that she [had] statutory standing as a person 'aggrieved by a violation' of BIPA." *Id.* at *4 (emphasis omitted). "[B]y limiting the right to sue to persons aggrieved by a violation of the act," the district court reasoned, "the Illinois legislature intended to include only persons having suffered an injury from a violation as 'aggrieved.'" *Id.* The Southern District of New York adopted the same reasoning when applying Illinois law in *Vigil*, 235 F. Supp. 3d at 520.

Plaintiff attempts to distinguish these decisions by claiming that they were "primarily concerned with federal courts' limited subject matter jurisdiction." Br. 34. That argument is foreclosed by the decisions themselves, which make clear that the courts were addressing the "aggrieved" requirement on its own terms. In *McCollough*, the district court emphasized that "statutory standing as a person 'aggrieved *by* a violation' of BIPA" was an independent barrier to the lawsuit—"[i]n addition to [the plaintiff's] lacking constitutional standing." 2016 WL 4077108, at *4. Similarly, in

Vigil, the district court reasoned that, "under Illinois law, 'aggrieved' means that a plaintiff must link a statutory harm to an injury to have a cause of action." 235 F. Supp. 3d at 520. Both of these decisions *also* concluded that the plaintiff lacked constitutional standing in federal court, but the opinions themselves make clear that the complaints would have failed in any event because the plaintiffs were not "aggrieved."

Plaintiff is similarly misguided in noting that the district court's analysis of Illinois law in *Vigil* was vacated by the Second Circuit given the absence of federal subject-matter jurisdiction. As an initial matter, the same cannot be said of the district court's decision in *McCollough*, which remains the principal opinion of the Illinois federal courts on this issue.[4] In any event, the Second Circuit did not disapprove of the district court's construction of BIPA in *Vigil*; it concluded only that, because the district court lacked subject-matter jurisdiction, it could not properly "dismiss the complaint *with prejudice* for failure to state a cause of action under the statute." *Santana v. Take-Two Interactive Software, Inc.*, 717 F. App'x 12, 17 (2d Cir. 2017) (emphasis added). Yet, as courts within the Second Circuit have repeatedly noted, "a logical and well-reasoned decision, despite vacatur, is always persuasive authority, regardless of its district or circuit of origin or its ability to bind." *In re Finley, Kumble, Wagner, Heine, Underberg, Manley, Myerson & Casey*, 160 B.R. 882, 898 (Bankr. S.D.N.Y. 1993); *see also Brown v.*

[4] *See also Dixon v. Wash. & Jane Smith Comm.,* No. 17 C 8033, 2018 WL 2445292, at *1, 11–12 & n.6 (N.D. Ill. May 31, 2018) (adopting holding from *Rosenbach* that "person aggrieved" under BIPA must establish "an actual and concrete harm that stems directly from the defendants' alleged violations of BIPA," but declining to dismiss suit because plaintiff's employer had disclosed her biometric data to the "third-party vendor of [the employer's] biometric time clocks," an allegation not present here).

Kelly, 609 F.3d 467, 476–77 (2d Cir. 2010) (treating vacated Second Circuit decision as "persuasive authority"). Plaintiff cannot properly dismiss the "persuasive" force of these decisions' reasoning by noting that one of them was vacated on a ground that had nothing to do with the opinion's correctness.

To be sure, in two federal cases not cited by Plaintiff, courts have permitted BIPA lawsuits to proceed based on statutory violations alone. *See In re Facebook Biometric Info. Priv. Litig.*, No. 3:15-cv-03747-JD, 2018 WL 1794295 (N.D. Cal. Apr. 16, 2018); *Monroy v. Shutterfly, Inc.*, No. 16 C 10984, 2017 WL 4099846 (N.D. Ill. Sept. 15, 2017). These cases, however, are easily distinguishable.

In *Facebook*, the out-of-state district judge cavalierly dismissed *Rosenbach* as "a non-binding data point" that the court could "part company with," and in "part[ing] company with" that decision did not even address the language of the private right of action. 2018 WL 1794295, at *6. The court instead rested its decision on the legislative findings made by the General Assembly, which both misreads those findings, *see infra* at 27–29, and contravenes this Court's repeated holdings that the statutory language itself provides "the best indicator of legislative intent," *Kean v. Wal-Mart Stores, Inc.*, 235 Ill. 2d 351, 361 (2009). In any event, *Facebook* was a class certification decision, not a ruling on a motion to dismiss, and the Ninth Circuit has since granted interlocutory appeal. *See Patel v. Facebook, Inc.*, No. 18-80053, Order (9th Cir. May 29, 2018). As for *Monroy*, that case was decided before the Second District decided *Rosenbach* and did not consider the meaning of "aggrieved by a violation," but rather the damages provision of BIPA. 2017 WL 4099846, at *8.

2. Plaintiff also cannot avoid these decisions interpreting BIPA by invoking Illinois opinions addressing whether a party had been directly prejudiced by an administrative decision or legal judgment, for purposes of a right to appeal. *See* Br. 17–18 (citing *Glos v. People*, 259 Ill. 332 (1913), *Am. Sur. Co. v. Jones*, 384 Ill. 222 (1943), and *In re Harmston's Estate*, 10 Ill. App. 3d 882 (3d Dist. 1973)). In any event, these decisions support Six Flags' position here: They acknowledge that the violation of a legal right is *necessary* to make an individual "aggrieved," but do not hold—or even suggest—that it is *sufficient*.

In *Glos*, the Court confronted whether Ms. Glos could appeal from a foreclosure proceeding even though she was not a party to that proceeding. 259 Ill. at 338. The Court concluded that Ms. Glos was not "aggrieved" because the foreclosure proceedings did not result in a cloud on her title. *Id.* at 340–41, 344. From this, "[t]he conclusion follow[ed] that Emma J. Glos, *not being prejudiced in any way*, [was] not entitled to maintain [a] bill of review." *Id.* at 344 (emphasis added). This Court's determination that Ms. Glos was not "aggrieved," as she has not been "prejudiced in any way," *id.*, cannot be squared with Plaintiff's argument that a statutory violation, *without more*, is sufficient for her to be "aggrieved."

In *Jones*, the plaintiff insurance companies challenged an administrative order authorizing a different group of insurers—underwriters at Lloyd's of London—to transact business in Illinois. 384 Ill. at 224. An Illinois statute gave "any company or person aggrieved" the right to review such administrative orders. *Id.* at 229. This Court, however, held that the insurance companies were not "aggrieved" because the order

"renewing [the Lloyd's underwriters'] certificate did not directly affect [their] interest . . . since none of their certificates were involved in the decision nor was any order directed against any of them." *Id.* at 230. "Any prejudice resulting to them from the granting of the renewal of the certificate of authority to [the Lloyd's underwriters] was at most an indirect or inconsequential result thereof," as otherwise they would be "free from the competition" of those underwriters. *Id.* The plaintiffs' allegation "that underwriters at [Lloyd's] had not complied with certain provisions of the Illinois Insurance Code" (*id.* at 224) did not itself make the plaintiffs "aggrieved." Consistent with this decision, the Court applied *Jones* in *Gibbons v. Cannaven* to reject an attempt by a non-party to appeal a decision because there was no basis to conclude that "they were *injured* by the judgment, or will be directly benefited by its reversal." 393 Ill. 376, 381 (1946) (emphasis added). *Gibbons* confirms that, contrary to Plaintiff's interpretation, *Jones* requires not just the violation of a legal right, but also injury for an individual to be "aggrieved."

Similarly, in *In re Harmston's Estate*, the Third District concluded that unsuccessful bidders for real estate were not "aggrieved" because they lacked sufficient juridical interest in the property at issue. 10 Ill. App. 3d at 884–86. "On the basis of the record," the court concluded, "we do not believe that the [bidders] were 'aggrieved' as required by the Probate Act so as to vest in them a right to appeal from the order in question." *Id.* at 886. This was true even though the bidder-plaintiffs alleged a statutory violation: "that the circuit court failed to follow the provisions of the Probate Act relating to sales of decedents' real estate." *Id.* 883. As in *Glos* and *Jones*, the plaintiffs' failure to

allege an injury beyond the mere fact of a statutory violation was sufficient for the court to conclude that they were not "aggrieved" by any alleged statutory violation.

By contrast, in *Greeling v. Abendroth*, 351 Ill. App. 3d 658 (4th Dist. 2004), which Plaintiff also cites, *see* Br. 18, the plaintiff was "'aggrieved' at defendants because [they] . . . interfer[ed] with a contractual relationship." 351 Ill. App. 3d at 666. The defendants in *Greeling* cashed a certificate of deposit jointly owned by the plaintiff, and in doing so "deprive[d] [the plaintiff] of the benefit of the contract." *Id.* As a result, "[t]he trial court could have reasonably found that [the defendants] 'injured' or 'lessened in value' plaintiff's economic interest in the certificate of deposit." *Id.* The same is not true here, where Plaintiff has not alleged any injury beyond a violation of BIPA.

3. Moreover, the caselaw from other state courts confirms the interpretation of "aggrieved" adopted in *McCollough* and *Vigil*. Most significantly, the New Jersey Supreme Court held earlier this year that the term "aggrieved consumer" requires not just a "violation" of the relevant consumer-protection statute but also that the "consumer . . . has been harmed by [the] violation." *Spade,* 181 A.3d at 980. In contrast, the court determined, "a consumer who receives a contract that includes language prohibited" by the statute, "but who suffers no monetary or other harm as a result of that noncompliance, is not an 'aggrieved consumer' entitled to a remedy." *Id.* at 972. Like the Second District below, the New Jersey Supreme Court noted that the legislature's addition of the term "aggrieved" to "consumer" was meant to "distinguis[h] consumers who have suffered harm because of a [statutory] violation . . . from those who have merely been

exposed to unlawful" actions, and that any other interpretation would render "the term 'aggrieved' . . . superfluous." *Id.* at 979-80.

The Supreme Courts of Oklahoma and Kansas, as well as the Wisconsin Court of Appeals, have embraced the same interpretation of "aggrieved." *See Walls v. Am. Tobacco Co.*, 2000 OK 66, ¶ 11 (construing term "aggrieved consumer" to mean "that the consumer must have suffered some detriment caused by a violation of the [Oklahoma statute]"); *Finstad v. Washburn Univ. of Topeka*, 252 Kan. 465 (1993) (students who did not rely on university's allegedly false statement were not "aggrieved consumers" within the meaning of the Kansas Consumer Protection Act); *Avudria*, 2011 WI App 95, ¶ 25 (plaintiff was not "aggrieved" under Wisconsin statute because he alleged a "mere technical violation" without showing "*some* actual injury or damage").[5]

C. The Purpose And Legislative History Of BIPA Support An Actual-Injury Requirement

Where the meaning of a statute is not clear, or cannot be gleaned from interpretation of similar statutes, courts can look to the purpose and legislative history of the law. *See Advincula v. United Blood Servs.*, 176 Ill. 2d 1, 19 (1996). That is unnecessary in this case: The plain and ordinary meaning of the statute demonstrates that

[5] Plaintiff's attempt to distinguish *Avudria* is unavailing. Br. 32–34. Plaintiff claims that "the court was construing a statute that pre-supposed regulatory enforcement by an established governmental bureaucracy." *Id.* at 33. That the Wisconsin statute at issue allows for criminal penalties has no bearing on the court's construction of the statute's private-cause-of-action provision. That provision, like the one at issue here, limits those who can sue to persons "aggrieved" and provides for the greater of statutory damages and actual damages. *See* Wis. Stat. Ann. § 224.80. *Avudria* correctly determined, based on Wisconsin Supreme Court precedent, that "the terms 'aggrieved' and 'injured' are nearly synonymous," and that plaintiff had to show "*some* actual injury or damage." 2011 WI App 95, ¶ 25 (citing *Liebovich*, 2008 WI 75, ¶ 37).

the General Assembly required a showing of actual injury as a prerequisite to invoking the private right of action, and this meaning is confirmed by the interpretation of similar statutes by this Court and others across the country. Regardless, the purpose and legislative history of BIPA provide further support for the Second District's conclusion that an individual must have been injured by the statutory violation to bring suit.

1. As the court in *Vigil* explained, "[t]he Illinois legislature was concerned that the failure of businesses to implement reasonable safeguards for [biometric] data would deter Illinois citizens from 'partaking in biometric identifier-facilitated transactions' in the first place, and would thus discourage the proliferation of such transactions as a form of engaging in commerce." 235 F. Supp. 3d at 504 (quoting 740 ILCS 14/5(e)). Yet the General Assembly did not seek to eliminate the use of biometric data; to the contrary, it acknowledged that "[t]he use of biometrics . . . appears to promise streamlined financial transactions and security screenings." 740 ILCS 14/5(a). Thus, the General Assembly sought to balance its desire to facilitate the use of biometric data for societally useful purposes with its concern that Illinoisans might be deterred if their biometric data could be compromised: "[T]he purpose of the BIPA is to ensure that, when an individual engages in a biometric-facilitated transaction, the private entity protects the individual's biometric data, and does not use that data for an improper purpose, especially a purpose not contemplated by the underlying transaction." 235 F. Supp. 3d at 504 (citing 740 ILCS 14/5(a–g)).

The legislative history of BIPA confirms that the Act aims to prevent the misuse of biometric data. Representative Kathleen A. Ryg explained that the origin of BIPA was

the bankruptcy of Pay by Touch, which was the largest fingerprint scan system in Illinois and which had contracts with grocery stores and other retail outlets to enable paying "by touch" (*i.e.*, by fingerscan). Notably, it was not the *establishment* of Pay by Touch, but rather its *bankruptcy*, that prompted concern. Following the bankruptcy, an anticipated sale of the company's database raised questions about potential disclosure of consumers' biometric data; it "[left] thousands of customers . . . wondering what [would] become of their biometric and financial data." Transcript of the State of Illinois 95th General Assembly House of Representatives, 249 (May 30, 2008) (remarks of Rep. Ryg) (A015–A018). As a result, Representative Ryg noted the "very serious need of protections for the citizens of Illinois when it comes to biometric information." *Id.* She explained that the purpose of BIPA was to impose "collection and retention standards while prohibiting the sale of biometric information." *Id.* (emphasis added).

Together, the legislative findings and history demonstrate that the General Assembly supported the use of biometric data, was concerned about the possibility that the data could be misused or improperly disseminated, and drew a careful balance in the text of the Act by imposing requirements on data-collecting entities and creating a private right of action where an entity's violation of those requirements harms an individual.

Plaintiff would strike a different balance, arguing that individuals must be permitted to bring suit even if they have not been injured because such lawsuits supposedly would further the General Assembly's purpose in protecting individual privacy. This argument ignores the balance struck by the legislature, placing its entire weight on one half of that balance while ignoring the other half: the General Assembly's

desire to promote the use of biometric-facilitated transactions. Plaintiff cannot assume that the General Assembly chose to extend the private right of action to uninjured individuals just because she believes that would help protect privacy. The statutory text makes clear that the General Assembly chose instead to impose conditions on the right of action, limiting its availability to individuals "aggrieved by a violation" of the Act.

Plaintiff and her *amici* also attempt to cast the Act's purpose in a broader light, arguing that BIPA adopts a comprehensive regime of "private regulatory enforcement" for biometric data. Br. 18; *see also* ACLU Br. 18; EPIC Br. 17–18. None of these arguments is tied to the text of the statute, nor are they consistent with the more focused concern—misuse of biometric data—that prompted the Act.

In construing a statute, the Court focuses not on broad invocations of public policy, but rather on the actual provisions the General Assembly ultimately chose to enact in service of its policy goals. "Every statute proposes, not only to achieve certain ends, but also to achieve them by particular means—and there is often a considerable legislative battle over what those means ought to be." *Dir., Off. of Workers' Comp. Programs v. Newport News Shipbuilding & Dry Dock Co.*, 514 U.S. 122, 136 (1995). As a result, "[t]he withholding of . . . authority is as significant as the granting of it," and courts have no basis for "play[ing] favorites between the two." *Id*. In this case, the question is whether the General Assembly created a right of action that extends to uninjured individuals, and saying that it did because the legislators were concerned about biometric data security simply begs the question.

2. Plaintiff and her *amici* assume that the General Assembly *must have* intended to permit lawsuits by individuals who have not suffered any injury, but there are numerous examples of other privacy statutes that do not permit any private right of action *at all*. Most significantly, the "[s]tudent biometric information" amendments to the school code—which Plaintiff contends were a "precursor to BIPA"—have no private right of action. Br. 11 (citing 105 ILCS 5/10-20.40; 105 ILCS 5/34-18.34). Similarly, there is no private right of action in the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004, which requires "a signed consent form" from fingerprinted individuals and—identically to BIPA— requires fingerprint vendors to develop a publicly available written policy "establishing a retention schedule and guidelines for permanently destroying identifiers and other biometric information." 68 Ill. Adm. Code 1240.535(c)(8). Nor is there anything inconsistent in concluding that the legislature permitted a private right of action but confined it to individuals who were injured by the statutory violation they allege.

It is hardly unprecedented to require plaintiffs to demonstrate some actual harm before seeking relief, even in the privacy context. "Illinois courts recognize four ways to state a cause of action for invasion of privacy: (1) intrusion upon the seclusion of another; (2) appropriation of another's name or likeness; (3) public disclosure of private facts; and (4) publicity placing another in a false light." *Cooney v. Chicago Pub. Schs.*, 407 Ill. App. 3d 358, 365 (1st Dist. 2010) (internal quotation marks omitted). Of these four torts, only one—intrusion upon seclusion—is even arguably analogous here. The elements required to establish intrusion upon seclusion are "(1) an unauthorized intrusion into

seclusion; (2) an intrusion would be highly offensive to a reasonable person; (3) the matter intruded upon was private; and (4) *the intrusion caused the plaintiff[] anguish and suffering*." *Id.* at 366 (emphasis added). "Under Illinois law," therefore, "a plaintiff must prove actual injury in the form of, for example, medical care, an inability to sleep or work, or a loss of reputation and integrity in the community in order to recover damages for torts such as intrusion upon seclusion." *Schmidt v. Ameritech Illinois*, 329 Ill. App. 3d 1020, 1035 (1st Dist. 2002). "Injury is not presumed." *Id.*; *see also Vigil*, 235 F. Supp. 3d at 517 ("at common law, not every unlawful or unauthorized collection of information, or collection of information for an improper purpose, gave rise to an intrusion on seclusion").[6]

[6] Outside the privacy context, Illinois courts have held that a plaintiff must allege an actual present injury to state a claim under the Consumer Fraud and Deceptive Business Practices Act ("Consumer Fraud Act"). *See Cooney*, 407 Ill. App. 3d at 365 (rejecting plaintiffs' contention that they alleged actual damages because the disclosure of social security numbers and other identifying information put them at an increased risk of future identity theft; such allegations of injury were speculative and insufficient to state a claim under the Consumer Fraud Act); *Yu v. Int'l Bus. Mach. Corp.*, 314 Ill. App. 3d 892, 897 (1st Dist. 2000) (dismissing Consumer Fraud Act claims based only on "conjecture and speculation" of future injury because "[t]he failure to state sufficient facts to constitute a legally cognizable present injury or damage mandates dismissal of the action"); *Kelly v. Sears Roebuck & Co.*, 308 Ill. App. 3d 633, 644 (1st Dist. 1999) (dismissing claims where plaintiff alleged only that he "might have received" defective battery because "any injury in the present case is speculative at best"). The courts so held even though the Consumer Fraud Act, unlike BIPA, provides that unfair methods of competition and deceptive practices are unlawful regardless of "whether any person has in fact been misled, deceived or damaged." 815 ILCS 505/2. More generally, a plaintiff cannot state a claim for negligence or breach of contract absent some showing of harm, even if the defendant violated a duty he owed to the plaintiff or failed to adhere to contractual terms. *See, e.g.*, *Schweihs v. Chase Home Fin., LLC*, 2016 IL 120041, ¶ 31 (elements of negligence); *Burkhart v. Wolf Motors of Naperville, Inc. ex. rel. Toyota of Naperville, Inc.*, 2016 IL App (2d) 151053, ¶ 14 ("In order to establish a claim for breach of contract, a plaintiff must allege . . . resultant injury to the plaintiff." (citation omitted)).

Plaintiff's theory is that private enforcement by uninjured individuals is necessary because "BIPA does not empower a government agency to enforce the Act." Br. 7; *see also, e.g.*, *id.* at 8, 21, 26–27, 33–34, 41. But in an era of rapidly advancing technology, the legislature had good reason to proceed cautiously in limiting BIPA's private right of action. Incentivizing an army of private attorneys general to seek harmless deficiencies in BIPA paperwork (*e.g.*, a failure to specify a retention period in a BIPA notice) could stifle innovation and deter companies from employing biometric technology in the first place. The legislature struck a reasonable balance between privacy and innovation by allowing suits only by persons who suffer some actual harm.[7]

Plaintiff protests that violations of BIPA's notice and consent provisions are unlikely to give rise to any actual injury, *see* Br. 21, but she ignores the General Assembly's clear focus on the *harm* that could result from the sale or theft of biometric data and its *silence* about any need for standardized notice and consent. Indeed, the legislative history suggests that the notice and consent provisions simply "operate in support of the data protection goal of the statute" and "allow parties to set the contours for the permissible uses of the biometrics." *Vigil*, 235 F. Supp. 3d at 513, 514. "[S]o long as the private entity only uses the biometrics collected as both parties intended," "no concrete BIPA interest can be harmed." *Id.* at 514; *see also McCollough*, 2016 WL

[7] This Court's decision in *Standard Mut. Ins. Co. v. Lay*, 2013 IL 114617, which Plaintiff cites (Br. 23), is not to the contrary. In construing the federal Telephone Consumer Protection Act ("TCPA"), the Court observed that "Congress intended the $500 liquidated damages available under the TCPA to be, at least in part, an incentive for private parties to enforce the statute." *Id.* ¶ 32. But the TCPA provides a private right of action to any "person or entity"; it does not limit the universe of those who may sue to persons "aggrieved by a violation." *Id.* ¶ 29.

4077108, at *3 ("How can there be an injury from the lack of advance consent to retain the fingerprint data beyond the rental period if there is no allegation that the information was disclosed or at risk of disclosure? It was simply retained.").

And while it may be difficult to show harm flowing from a violation of BIPA's notice and consent provisions, aggrievement is not an insurmountable bar. Plaintiff perhaps could have a claim under BIPA if her allegations were different, but Plaintiff—the master of her own complaint—has not alleged *any* real-world harm beyond the mere fact of an alleged statutory violation.

3. Unable to draw any meaningful support from the actual legislative findings and history, Plaintiff seeks to invent her own: She posits that BIPA is prophylactic and therefore that uninjured parties must be permitted to bring suit to prevent harm before it occurs. *See*, *e.g.*, Br. 15, 16, 21, 26, 29. To be sure, BIPA requires companies to develop policies and exercise reasonable care with respect to biometric data, which likely does help prevent data breaches and the misuse of biometric data. *See* 740 ILCS 14/15. That does not mean that the General Assembly took the *additional* step of creating a private right of action even for individuals who have not suffered any injury. And there are good reasons to conclude that it did not.

The following features of BIPA demonstrate that the General Assembly did not authorize prophylactic suits for damages: (i) the legislature limited BIPA's right of action to "person[s] aggrieved by a violation of this Act," 740 ILCS 14/20; and (ii) the legislature allowed recovery of damages only where defendant acted negligently, recklessly, or intentionally, which imposes a level of culpability that the statute does not

require for other forms of relief. Plaintiff does not point to any statute with a similar combination of provisions that is enforceable without establishing an injury.

Indeed, Plaintiff's interpretation of BIPA—which would allow any person to sue regardless of injury—would lead to absurd results. Someone who voluntarily provided his finger for a fingerscan, knew the purpose of the scan, and had the accompanying numerical data destroyed before it had been disclosed or misused in any way could file an action seeking thousands of dollars in statutory damages for the failure to make specific disclosures. He could file a putative class action and, should the case survive a motion to dismiss, impose wide-ranging discovery and multiply the potential damages and pressure to settle exponentially. *See AT&T Mobility LLC v. Concepcion*, 563 U.S. 333, 350 (2011) ("Faced with even a small chance of a devastating loss, defendants will be pressured into settling questionable claims. Other courts have noted the risk of 'in terrorem' settlements that class actions entail . . . ."). That result would be inconsistent with the traditional role of courts, which is to provide relief to claimants who have suffered harm. *See Lewis v. Casey*, 518 U.S. 343, 349 (1996) ("It is the role of courts to provide relief to claimants, in individual or class actions, who have suffered, or will imminently suffer, *actual harm*." (emphasis added)). Indeed, "it is axiomatic that, in construing a statute," courts "presume that the General Assembly did not intend absurdity, inconvenience or injustice." *J.S.A. v. M.H.*, 224 Ill. 2d 182, 210 (2007). There is no reason to construe BIPA to produce absurd results when the natural reading of the statute would avoid them. *See Griffin v. Oceanic Contractors, Inc.*, 458 U.S. 564, 575 (1982).

The legislature's provision of outsized statutory damages amplifies this concern. Plaintiff contends that a mere statutory violation can trigger $1,000 to $5,000 in liquidated damages, but this degree of compensation is clearly disproportionate where the violation caused no harm. Entities (including small businesses) that protect customer data and substantially comply with the purpose of BIPA should not face these punishing sanctions. Indeed, it would make no sense to compensate individuals (at a price of up to $5,000 per violation) for voluntarily providing their biometric data simply because consent was obtained through the placement of a finger on a device rather than through a written form. Such a regime would destroy the balance that the General Assembly sought to establish between technological innovation and personal privacy.

II. Plaintiff Is Not Entitled To Any Remedy Under BIPA

Because BIPA's right of action limits *any* recovery (actual damages, liquidated damages, attorney fees, injunctive relief) to a person "aggrieved"—that is, actually injured—the Second District correctly held that Plaintiff could not seek either liquidated damages or injunctive relief under BIPA if she was not "aggrieved by a violation" of the Act. The meaning of "aggrieved" carries through to all types of relief listed in the statute.

A. Plaintiff Is Not Entitled To Liquidated Damages

Plaintiff is not entitled to liquidated damages because she has alleged no injury—pecuniary or otherwise. In response, she asserts that there is no "actual damage barrier to suit" because BIPA "does not premise the liquidated damages on the existence of any actual damages, independent of the violation of BIPA." Br. 23, 25. This argument conflates (1) the damages that a plaintiff might ultimately prove at trial—what BIPA calls "actual damages"—with (2) the question whether the plaintiff has suffered an injury—

has been "aggrieved"—as a result of the BIPA violation. The latter issue goes not to the *amount of damages* that might ultimately be awarded at trial but instead the antecedent question whether the plaintiff can pursue *any form of relief* under Section 20.

The trial court correctly distinguished between these issues by limiting the certified questions to cases (like this one) where the "only *injury* [the plaintiff] alleges is a violation of Section 15(b) of the Act" (emphasis added). As a result, Plaintiff's focus on "actual damages" not only ignores the relevant question before this Court but goes beyond the certified questions.

B. Plaintiff Is Not Entitled To Injunctive Relief

As Plaintiff acknowledges (Br. 27), the requirement that a person be "aggrieved by a violation of this Act" applies equally to a claim for injunctive relief. This is clear from the plain language and structure of the statute, which provides as an introductory clause that "[a]ny person aggrieved by a violation of this Act shall have a right of action . . . against an offending party," and then lists four different items that a prevailing party may recover, ranging from damages to "an injunction." *Compare* 740 ILCS 14/20(1)–(2), *with* 740 ILCS 14/20(4). Plaintiff cannot pursue a claim for injunctive relief under BIPA because her failure to allege any actual injury means that she is not a "person aggrieved," and thus has no right of action under BIPA for any kind of relief. *See Schiller v. Mitchell*, 357 Ill. App. 3d 435, 446 (2d Dist. 2005) (holding plaintiffs were not entitled to injunctive relief on underlying causes of action found to be inadequately pleaded and therefore dismissed). For this reason, the federal district courts in *Vigil* and *McCollough* dismissed all of the plaintiffs' claims, including the injunctive relief claims,

upon finding that the plaintiffs failed to state a claim for relief under BIPA. *See Vigil*, 235 F. Supp. 3d at 521; *McCollough*, 2016 WL 4077108, at *5.

Further, injunctive relief is appropriate only when a party shows that she has a clear and ascertainable right that needs protection, there is no adequate remedy at law, and she will suffer irreparable harm if injunctive relief is not granted. *Helping Others Maintain Envtl. Standards v. Bos*, 406 Ill. App. 3d 669, 688 (2d Dist. 2010). Plaintiff fails to plead any of these elements, precluding her from recovering injunctive relief. *See Postma v. Jack Brown Buick, Inc.*, 157 Ill. 2d 391, 400 (1993) (holding that where statute provides for private right of action and allows plaintiffs to recover damages as well as injunctive relief, plaintiff must satisfy traditional common law elements of irreparable injury and inadequacy of legal remedies before recovering injunctive relief).

Plaintiff argues that adopting the Second District's construction of "aggrieved by a violation" would bar plaintiffs from seeking injunctive relief in the absence of injury, and therefore preclude them from enjoining violations of BIPA's notice, consent, and written policy provisions. Br. 27–30. But Plaintiff does not argue that this would render either the injunctive relief provision or the notice, consent, and written policy provisions superfluous; each of these provisions remains enforceable in other situations. Plaintiff's argument is not textual, but instead based on her policy view that injunctive relief *should* be available even before an injury occurs. That might perhaps be good policy. It is not, however, the policy—or the statutory language—that the General Assembly adopted.

III. Plaintiff Has Suffered No Actual Harm

As a fallback position, Plaintiff argues in various ways that she did suffer an actual injury and thus is "aggrieved." But none of them avoids the fundamental problem

that Plaintiff's argument on injury goes beyond the certified questions. The certified questions start from the premise that "the *only injury* . . . *allege*[*d*] is a violation of § 15(b) of the Act" (emphasis added). At this stage of the litigation, Plaintiff cannot properly inject any injury that goes beyond the fact of a BIPA violation. In any event, her arguments are meritless.

First, Plaintiff argues that Six Flags' alleged violations of BIPA "automatically caused harm; harm to Plaintiff's rights created by BIPA." Br. 22. According to Plaintiff, "[i]llegally taking highly sensitive Biometrics constitutes injury, without further ensuing harm," and the Second District erred in requiring Plaintiff to prove "second-level harm beyond a deprivation of a personal legal right." *Id.* at 35, 40; *see also id.* at 17, 21, 27, 32, 36, 39–40. Plaintiff's argument is circular: It assumes the Court will answer the certified questions in the affirmative and find that a person is aggrieved under BIPA "when the only injury he alleges is a violation of Section 15(b) of the Act." But that is the entire issue on appeal, and the Court should reject Plaintiff's argument for the reasons already stated. Six Flags is not asking this Court to require "second-level harm"; it merely asks the Court to enforce the text of the Act, and hold that someone who has not been harmed in the first place has no right of action under the Act.

Second, Plaintiff asserts that she was "deprived . . . of information the General Assembly deemed significant enough to codify and require." Br. 39. In rejecting the same information-injury theory in *Vigil*, the court observed that "BIPA is not akin to a statute where the right-to information is a concrete interest in-of-itself, such as a statute designed to give a consumer information about prospective statutory rights that the

consumer could exercise, but that might otherwise be lost." 235 F. Supp. 3d at 513. Unlike those statutes, "BIPA's notice and consent provisions do not create a separate interest in the right-to-information, but instead operate in support of the data protection goal of the statute" if an individual chooses to have his biometric data used for some purpose. *Id.* The cases Plaintiff cites are inapposite because they construe statutes aimed at providing information. *See Fed. Election Comm'n v. Akins*, 524 U.S. 11 (1998) (the Federal Election Campaign Act's purpose is the disclosure of information regarding Federal Campaign Funds); *Heartwood, Inc. v. U.S. Forest Serv.*, 230 F.3d 947, 952 n.5 (7th Cir. 2000) (the National Environmental Policy Act "requires agencies to conduct [environmental assessments] in order to provide stakeholders with information necessary to monitor agency activity").

Third, Plaintiff asserts a new argument for the first time before this Court—that "depriving a person of the right to refuse to execute a written release causes injury." Br. 39. The Court should decline to consider Plaintiff's belated argument. *See Hansen v. Baxter Healthcare Corp.*, 198 Ill. 2d 420, 429 (2002). Moreover, Plaintiff misunderstands the statute that she invokes: 405 ILCS 5/2-102(a-5), which requires a physician to advise a recipient of mental health services of the side effects, risks, and alternatives to psychotropic medication. In *In re Beverly B.*, 2017 IL App (2d) 160327, ¶ 26 (also cited in Plaintiff's Brief), the court held that "[i]t is error for a court to grant a petition for the involuntary administration of psychotropic medication absent evidence of compliance with section 2-102(a-5)." A failure to comply with section 2-102(a-5) causes actual harm by depriving the recipient of the opportunity to seek alternative treatment or

provide consent before the State forcibly administers psychotropic drugs. *Id.* ¶ 35. Plaintiff also cites *Fiala v. Bickford Senior Living Grp., LLC*, 2015 IL App (2d) 150067, ¶ 8, a case in which "drugs given to [a patient] without prior consent would render him catatonic" or "violent." The patient alleged that the "administration of the medications, in light of the lack of consent, constituted an unwanted touching of [his] person." *Id.* ¶ 10. Again, the harm here is clear—a "battery," or "unauthorized touching," in the form of medication administered against a patient's will. *Id.* ¶ 20. Plaintiff cites no authority for the proposition that the failure to provide a written release, without more, renders a person "aggrieved."

CONCLUSION

The Court should affirm the Second District's judgment and hold that an individual is not a "person aggrieved by a violation" of BIPA when the only injury alleged is a violation of Section 15(b) of the Act by a private entity who collected his biometric data without providing him the required disclosures and obtaining his written consent as required by Section 15(b) of the Act.

Respectfully submitted,

Defendants-Appellees
Six Flags Entertainment Corporation
and Great America LLC

/s/ Debra R. Bernard
One of their attorneys

Debra R. Bernard
Perkins Coie LLP
131 South Dearborn Street, Suite 1700
Chicago, IL 60603
(312) 324-8400
DBernard@perksinscoie.com

Kathleen M. O'Sullivan
Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101
(206) 359-8000
KOSullivan@perkinscoie.com

CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 11,852 words.

Defendants-Appellees
Six Flags Entertainment Corporation
and Great America LLC

/s/ Debra R. Bernard
One of their attorneys

Debra R. Bernard
Perkins Coie LLP
131 South Dearborn Street, Suite 1700
Chicago, IL 60603
(312) 324-8400
DBernard@perksinscoie.com

Kathleen M. O'Sullivan
Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101
(206) 359-8000
KOSullivan@perkinscoie.com

CERTIFICATE OF SERVICE

On September 10, 2018, I caused this document to be filed and served by electronic means on the Clerk's office and I caused a true and complete copy of the foregoing **BRIEF FOR DEFENDANTS-APPELLEES** to be served by email and by causing a copy to be placed in an envelope, properly addressed to the recipients below and with proper postage, and deposited in the U.S. Mail at 131 S. Dearborn Street, Chicago, Illinois 60603:

Ilan Chorowsky
Mark Bulgarelli
Progressive Law Group LLC
1570 Oak Avenue, Suite 103
Evanston, IL 60201
(312) 787-2717
ilan@progressivelaw.com
markb@progressivelaw.com

Phillip A. Bock, Esq.
David M. Oppenheim, Esq.
Bock, Hatch, Lewis & Oppenheim, LLC
134 N. LaSalle St. #1000
Chicago, IL 60602
(312) 658-5500
phil@classlawyers.com
david@classlawyers.com

Attorneys for Plaintiff-Appellant Stacy Rosenbach.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this certificate are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

/s/ Debra R. Bernard
One of Defendants-Appellees' Attorneys

ADDENDUM

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Tenth Edition

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Copyright information

610 Opperman Drive
St. Paul, MN 55123
1-800-313-9378
Printed in the United States of America

ISBN: 978-0-314-61300-4
ISBN: 978-0-314-62130-6 (deluxe)

In 1974, the United Nations General Assembly adopted a Resolution on the Definition of Aggression (Resolution 3314 (XXIX) of December 14, 1974). It defines aggression, in part, as "the use of armed force by a State against the sovereignty, territorial integrity, or political independence of another country, or in a manner inconsistent with the Charter of the United Nations. . . ." The definition does not extend to measures that, in certain circumstances, might constitute aggression, nor does it recognize exceptional circumstances that would make the enumerated acts defensive rather than offensive. The U.N. Security Council has never expressly relied on the resolution when determining whether a country's acts constitute a "threat to the peace, breach of the peace, or act of aggression." *See* U.N. Charter art. 39, 59 Stat. 1031. The difficulty of finding a generally accepted definition of *aggression* is reflected in Article 5 of the Statute of the International Criminal Court (37 I.L.M. 999). It confers jurisdiction on the Court over "the crime of aggression" but also requires the parties to the Statute to define the crime before the Court can exercise jurisdiction.

> "Although classical aggression has generally been thought to involve direct military operations by regular national forces under government control, today subjugation and control of peoples may well result from resort to non-military methods. Economic pressures on the other states; demands couched in traditional diplomatic terms but laden with implied threats to compel action or inaction; fifth column activities; the endless propaganda harangue urging another state's peoples to rise against their government; the aiding and abetting of rebel bands intent on overthrowing another government; and a wide range of other modern techniques must be included in the concept of aggression in so far as they are delicts at international law, for they are directed against the sovereign independence of a state." Ann Van Wynen Thomas & A.J. Thomas Jr., *The Concept of Aggression in International Law* 69 (1972).

▸ **direct aggression.** (18c) Aggression in which a state's regular armed forces participate.

▸ **indirect aggression.** (1939) Aggression carried out by some means other than through a state's regular armed forces.

> "[I]ndirect aggression would seem to have two prime meanings: (1) delictual acts armed or unarmed and conducted vicariously by the aggressor state through third parties which endanger the essential rights of a state, rights upon which its security depends, and (2) delictual acts taken directly by the governing authorities of a state against another state or vicariously through third-party groups which do not involve the use of armed force, but which do endanger the essential rights of a state upon which its security depends. No directly military operations by the regular armed forces of a state are involved in either case; therefore the aggression can be regarded as an indirect method of constraint carried on by the aggressor state." Ann Van Wynen Thomas & A.J. Thomas Jr., *The Concept of Aggression in International Law* 69 (1972).

aggressor, *n.* (16c) A person or country that initiates conflict with another person or country; an assailant.

aggressor corporation. See CORPORATION.

aggressor doctrine. (1947) The principle precluding tort recovery for a plaintiff who acts in a way that would provoke a reasonable person to use physical force for protection, unless the defendant in turn uses excessive force to repel the plaintiff.

aggrieved, *adj.* (16c) **1.** (Of a person or entity) having legal rights that are adversely affected; having been harmed by an infringement of legal rights. **2.** (Of a person) angry or sad on grounds of perceived unfair treatment.

aggrieved party. See PARTY (2).

AGI. *abbr.* See *adjusted gross income* under INCOME.

agillarius (aj-ə-**lair**-ee-əs), *n.* [Law Latin] (18c) *Hist.* A keeper of a herd of cattle in a common field; a hayward.

aging of accounts. (1959) A process of classifying accounts receivable by the time elapsed since the claim came into existence for the purpose of estimating the balance of uncollectible accounts as of a given date.

aging-out, *n.* (1980) A foster child's or minor ward's reaching the age at which any legal right to care expires. • Aging-out usu. occurs when the child reaches the age of majority and becomes ineligible for foster care. Some states allow an extension of eligibility up to age 21 if the child is still in school or cannot live independently, or if it is otherwise in the child's best interests to remain in foster care and the child consents. See INDEPENDENT-LIVING PROGRAM.

agio (**aj**-ee-oh *or* **ay**-jee-oh), *n.* (17c) The premium paid for the exchange of one kind of money for another, such as paper currency for coin or one country's currency for another's.

agiotage (**aj**-ee-ə-tij). (1828) **1.** The business of dealing in foreign exchange. **2.** The speculative buying and selling of securities.

agist (ə-**jist**), *vb.* (16c) To allow animals to graze on one's pasture for a fee.

agister (ə-**jis**-tər), *n.* (15c) Someone who takes and pastures grazing animals for a fee; a person engaged in the business of agistment. • An agister is a type of bailee for hire. — Also spelled *agistor.* — Also termed *gisetaker.*

agister's lien. See LIEN.

agistment (ə-**jist**-mənt). (16c) **1.** A type of bailment in which a person, for a fee, allows animals to graze on his or her pasture; the taking in of cattle or other livestock to feed at a per-animal rate. **2.** A charge levied on the owner or occupier of land. — Also termed *gisement.* See TITHE OF AGISTMENT.

▸ **agistment of sea-banks.** *Hist.* A charge on landowners for maintaining dikes that prevent encroachment by the sea.

agistor. See AGISTER.

agitprop (**aj**-it-prahp), *n.* (1925) Music, literature, or art that serves as political propaganda because it tries to persuade people to follow a particular set of political beliefs.

agnate (**ag**-nayt), *adj.* (1860) Related or akin through male descent or on the father's side.

agnate, *n.* (16c) **1.** A blood relative whose connection is through the male line. **2.** A relative on the father's side, whether or not traced exclusively through the male line. Cf. COGNATE.

agnatic (ag-**nat**-ik), *adj.* (18c) (Of a relationship) restricted to affiliations through the male line. — Also termed *agnatical* (ag-**nat**-i-kəl).

agnatical. See AGNATIC.

agnatio (ag-**nay**-shee-oh), *n.* [Latin] (17c) *Roman law.* Kinship through the male line, not necessarily involving blood ties; specif., an affiliation of free persons of either

commercial or trading. If it does not buy or sell, it is one of employment or occupation.' 'Trading,' in its business sense, signifies, as a rule, the buying to sell again; but what are known as trading partnerships include also partnerships formed for manufacturing or mechanical purposes. The importance of the distinction between trading and nontrading partnerships lies in the fact that it is only in the case of trading partnerships that a partner has implied power to borrow money and give firm mercantile paper therefor." William George, *Handbook of the Law of Partnership* § 31, at 91-92 (1897).

▸ **umbrella limited partnership.** (1995) A limited partnership used by a real-estate investment trust to acquire investment properties in exchange for shares in the partnership. See *umbrella-partnership real-estate investment trust* under REAL-ESTATE INVESTMENT TRUST.

▸ **universal partnership.** (1816) A partnership formed by persons who agree to contribute all their individually owned property — and to devote all their skill, labor, and services — to the partnership.

partnership agreement. (1802) A contract defining the partners' rights and duties toward one another — not the partners' relationship with third parties. — Also termed *partnership articles*; *articles of partnership*.

partnership association. (1812) A business organization that combines the features of a limited partnership and a close corporation. • Partnership associations are statutorily authorized in only a few states. — Also termed *statutory partnership association*; *limited partnership association*.

partnership at will. See PARTNERSHIP.

partnership capital. The funds or assets contributed by partners toward the operation of a partnership.

partnership certificate. (1880) A document that evidences the participation of the partners in a partnership. • The certificate is often furnished to financial institutions when the partnership borrows money.

partnership distribution. See DISTRIBUTION.

partnership for a fixed term. See *fixed-term partnership* under PARTNERSHIP.

partnership insurance. See INSURANCE.

partnership life insurance. See *partnership insurance* (1) under INSURANCE.

partner's lien. See LIEN.

part payment. See PAYMENT (2).

part performance. **1.** See PERFORMANCE (1). **2.** See PART-PERFORMANCE DOCTRINE.

part-performance doctrine. (1935) The equitable principle by which a failure to comply with the statute of frauds is overcome by a party's execution, in reliance on an opposing party's oral promise, of a substantial portion of an oral contract's requirements. — Sometimes shortened to *part performance*. See *part performance* under PERFORMANCE.

"Part performance is not an accurate designation of such acts as taking possession and making improvements when the contract does not provide for such acts, but such acts regularly bring the doctrine into play. The doctrine is contrary to the words of the Statute of Frauds, but it was established by English courts of equity soon after the enactment of the Statute. Payment of purchase-money, without more, was once thought sufficient to justify specific enforcement, but a contrary view now prevails, since in such cases restitution is an adequate remedy. English decisions treated a transfer of possession of the land as sufficient, if unequivocally referable to the oral agreement, apparently on the ground that the promise to transfer had been executed by a common-law conveyance. Such decisions are not generally followed in the United States. Enforcement has instead been justified on the ground that repudiation after 'part performance' amounts to a 'virtual fraud.' A more accurate statement is that courts with equitable powers are vested by tradition with what in substance is a dispensing power based on the promisee's reliance, a discretion to be exercised with caution in the light of all the circumstances." Restatement (Second) of Contracts § 129 cmt. a (1979).

part-sovereign state. See SOVEREIGN STATE.

part-time employee. See EMPLOYEE.

party. (13c) **1.** Someone who takes part in a transaction <a party to the contract>.

"Note, that if an Indenture be made between two as Parties thereto in the Beginning, and in the Deed one of them grants or lets a Thing to another who is not named in the Beginning, he is not Party to the Deed, nor shall take any Thing thereby." John Rastell, *Les Termes de la Ley* 471 (26th ed. 1721).

"A person who takes part in a legal transaction or proceeding is said to be a party to it. Thus, if an agreement, conveyance, lease, or the like, is entered into between A. and B., they are said to be parties to it; and the same expression is often, though not very correctly, applied to the persons named as the grantors or releasors in a deed-poll." 2 Stewart Rapalje & Robert L. Lawrence, *A Dictionary of American and English Law* 930 (1883).

▸ **party of the first part.** (18c) *Archaic.* The party named first in a contract; esp., the owner or seller.

▸ **party of the second part.** (18c) *Archaic.* The party named second in a contract; esp., the buyer.

2. One by or against whom a lawsuit is brought; anyone who both is directly interested in a lawsuit and has a right to control the proceedings, make a defense, or appeal from an adverse judgment; LITIGANT <a party to the lawsuit>. • For purposes of res judicata, a party to a lawsuit is a person who has been named as a party and has a right to control the lawsuit either personally, or, if not fully competent, through someone appointed to protect the person's interests. In law, all nonparties are known as "strangers" to the lawsuit.

"Those persons who institute actions for the recovery of their rights, or the redress of their wrongs, and those against whom the actions are instituted, are the *parties* to the actions. The former are, in actions at common law, called plaintiffs, and the latter, defendants. In real actions, the parties are styled demandant and tenant; in appeals, appellant and respondent; in admiralty practice, libellant and respondent; in equity, plaintiff (or complainant) and defendant; on writs of error, plaintiff in error and defendant in error; on certioraris, relator and defendant; in criminal proceedings, the king, or the people, or state, or commonwealth, and prisoner; (the person on whose complaint the proceedings were instituted being styled the prosecutor;) in the Scotch law, pursuer and defender; and in the civil law, actor and *reus*." Oliver L. Barbour, *A Summary of the Law of Parties to Actions at Law and Suits in Equity* 18 (1864).

▸ **adverse party.** (15c) A party whose interests in a transaction, dispute, or lawsuit are opposed to another party's interests. Cf. *hostile witness* under WITNESS.

▸ **aggrieved party.** (17c) A party entitled to a remedy; esp., a party whose personal, pecuniary, or property rights have been adversely affected by another person's actions or by a court's decree or judgment. — Also termed *party aggrieved*; *person aggrieved*.

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MERRIAM-WEBSTER INC., *Publishers*
SPRINGFIELD, MASSACHUSETTS, U.S.A.

Library of Congress Cataloging in Publication Data
Main entry under title:

Webster's third new international dictionary of
the English language, unabridged.

Includes index.
1. English language—Dictionaries. I. Gove,
Philip Babcock, 1902–1972. II. G. & C. Merriam Company.
PE1625.W36 1981 423 81-16878
ISBN 0-87779-201-1 (blue Sturdite)
ISBN 0-87779-206-2 (imperial buckram) AACR2

MADE IN THE UNITED STATES OF AMERICA

363738KP858483

agent; *specif* : the representative in England of a British dominion acting in behalf of the political, economic, and commercial interests of the dominion

agen·tial \(ˈ)ā¦jenchəl\ *adj* [¹*agent* + *-ial*] : of, relating to, or expressive of an agent or agency — **a·gen·tial·ly** \-əlē\ *adv*

agent·ing \ˈājəntiŋ\ *n* -s : the work or activities of an agent ⟨the business of literary ~⟩

agent intellect *n* [trans. of ML *intellectus agens*, trans. of Gk *nous poiētikos*] : INTELLECT 1d(2)

agen·ti·val \ājənˈtīvəl\ *or* **agent·ive** \ˈājəntiv\ *adj* [¹*agent* + *-ival*, *-ive*] : expressive of an agent or of agency : denoting the performer of an action ⟨*agentive* nouns⟩ ⟨an *agentive* suffix⟩

agent middleman *n* : a middleman who negotiates purchases or sales on an agency basis

agent noun *n* : a noun denoting the performer of an action (as *writer*, *inspector*, *patron*, *hanger-on*)

agent officer *n* : a military officer appointed to disburse funds

agent pro·vo·ca·teur \ȧzhäⁿ prōˌvōkȧtœr; ˈājəntprōˈväkə-ˌtər, -tü(ə)r\ *n*, *pl* **agents provocateurs** \-äⁿp...œr; -ntsp...-ər(z), -ü(ə)r(z)\ [F, lit., provoking agent] : one employed to associate himself with members of a group or with suspected persons and by pretended sympathy with their aims or attitudes to incite them to some illegal or harmful action that will make them liable to apprehension and punishment : a secret agent or undercover man ⟨a city overrun with spies and *agents provocateurs*⟩

agent·ry \ˈājəntrē, -ri\ *n* -es : the office, duties, or activities of an agent

agents *pl of* AGENT

age of consent : the age at which one is legally competent to give consent esp. to marriage or to unlawful sexual intercourse

age of copper *usu cap A&C* : the Aeneolithic period

age of discretion : the age at which the law imputes to a person the possession of sufficient knowledge for him to become responsible for certain acts or competent to exercise certain powers

age of fishes *usu cap A&F* : DEVONIAN

age of gold : GOLDEN AGE

age of mammals *usu cap A&M* : CENOZOIC

age of man *usu cap A&M* : QUATERNARY

age of reason : a period characterized by the dominance of reason and common sense; *esp* : the 18th century in England and France

age of reptiles *usu cap A&R* : MESOZOIC

age-old \ˈ=ˌ=\ *adj* : having existed for ages : ANCIENT ⟨an *age-old* problem⟩

ag·er \ˈājə(r)\ *n* -s : one that ages: as **a** : a chamber usu. containing rollers for aging material with steam **b** : one that inspects electric lamps in process **c** : a worker who puts radio tubes in an aging machine that passes current through them to stabilize their quality

ag·er·a·tum \ˌajəˈrādəm, -ātəm\ *n* [NL, fr. L *ageraton*, a plant, fr. Gk *agēraton*, fr. neut. of *agēratos* ageless, fr. *a-* ²*a-* + *-gēratos* (fr. *gēras* old age) — more at GERIATRICS] **1** *cap* : a genus of tropical American herbs (family Compositae) having opposite leaves and small heads of blue or white flowers in terminal cymes **2** -s : a plant of the genus *Ageratum* (esp. *A. houstonianum*) **3** -s : any of several blue-flowered plants of the genus *Eupatorium*

ageratum blue *n* : FLOSSFLOWER BLUE

ages *pl of* AGE, *pres 3d sing of* AGE

-ages *pl of* -AGE

age score *n* : a test score translated into terms of a scale of age norms

age-set \ˈ=ˌ=\ *n*, *chiefly Brit* : AGE-CLASS

age-society \ˈ=ˌ=\ *n* : AGE-GRADE 1

ageu·sia \əˈgyüzēə, (ˈ)āˈg-\ *n* -s [NL, fr. ²*a-* + Gk *geusis* taste (fr. *geuesthai* to taste) + *-ia* — more at CHOOSE] : the absence or impairment of the sense of taste — **ageu·sic** \(ˈ)ˈ=zik\ *adj*

agg *abbr* aggregate

aggada *usu cap, var of* HAGGADA

ag·gag \ˈäˌgäg\ *n* -s [Chamorro] **1** : a screw pine (*Pandanus tectorius*) with prop roots and sword-shaped spiny leaves covered with a whitish bloom **2** : an article (as a mat or bag) made from the split leaves of the aggag

ag·ger \ˈajə(r)\ *n* -s **1** [L] : EARTHWORK: as **a** : MOUND, RAMPART **b** : a military or public road usu. raised and with sloping drainage embankments **2** [NL, fr. L] *anat* : PROMINENCE **3** [NL, fr. L] : a double tide: **a** : a high tide with two maxima separated by a slight lowering of water **b** : a low tide with two minima separated by a slight rise of water

¹ag·gie \ˈagē, ˈaig-, -gi\ *n* -s [alter. (influenced by *-ie*) of *agate*] : a playing marble; *specif* : an agate marble

²aggie \ˈ\ *n* -s *often cap* [*ag-* (as in *agricultural college*, *agricultural school*) + *-ie*] **1** : a student at an agricultural school or college **2** : an agricultural school or college

ag·glom·er·ant \əˈglämərənt, a-\ *n* -s [L *agglomerant-*, *agglomerans*, pres. part. of *agglomerare*] : something that causes agglomeration

¹ag·glom·er·ate \-rāt\ *vb* -ED/-ING/-S [L *agglomeratus*, past part. of *agglomerare* to heap up, join, fr. *ad-* + *glomerare* to wind into a ball, to assemble, fr. *glomus* ball — more at CLAM] *vt* **1** *obs* : to wind or collect into a ball **2** : to gather into a mass or cluster ⟨~ dust particles⟩ ~ *vi* : to collect or come together in a mass ⟨caused the oxide film to ~⟩

²ag·glom·er·ate \-rət\ *adj* [L *agglomeratus*] : collected into a ball, heap, or mass; *specif* : clustered or growing together but not coherent ⟨an ~ head of flowers⟩

³agglomerate \ˈ\ *n* -s **1** : a confused or jumbled mass, heap, or collection ⟨this fine ~ of duchies —Thomas Carlyle⟩ **2** : a rock composed of volcanic fragments of various sizes and degrees of angularity; *esp* : a rock in which the constituent fragments were produced by explosions in the throat of a volcano — compare CONGLOMERATE

ag·glom·er·at·ic \ˌ=ˌ=ˈradik\ *adj* [³*agglomerate* + *-ic*] : having the characteristics of an agglomerate ⟨~ lavas⟩

ag·glom·er·a·tion \ˌ=ˌ=ˈrāshən\ *n* -s **1** : the action or process of collecting in a mass : an agglomerated condition ⟨protection against caking and ~⟩ **2** : an indiscriminately formed mass : a cluster of disparate elements ⟨the ~ of buildings which somehow made up this town —Elizabeth Bowen⟩

ag·glom·er·a·tive \ˌ=ˈ=ˌrād·iv, ˌrəd·iv\ *adj* : tending to agglomerate : AGGLOMERATING

ag·glom·er·a·tor \-ˌrād·ə(r)\ *n* -s : one that agglomerates ⟨sonic ~s⟩

ag·glu·ti·na·bil·i·ty \əˌglüt³nəˈbilәd·ē, a,-\ *n* -ES [²*agglutinate* + *-ability*] : capacity (as of red blood cells, bacteria, or virus particles) to be agglutinated — **ag·glu·ti·na·ble** \ˈ=ˌ=əbəl\ *adj*

¹ag·glu·ti·nant \ˈ=ˌ=ənt\ *adj* [L *agglutinant-*, *agglutinans*, pres. part. of *agglutinare* to glue to, fr. *ad-* + *glutinare* to glue, fr. *glutin-* *gluten* glue — more at CLAY] : uniting closely : causing or tending to cause adhesion

²agglutinant \ˈ\ *n* -s : an agglutinating substance

¹ag·glu·ti·nate \-ət\ *adj* [L *agglutinatus*, past part. of *agglutinare*] **1** : joined with or as if with glue ⟨~ spores⟩ **2** : AGGLUTINATIVE 2

²ag·glu·ti·nate \-ˌāt, *usu* -ād·+V\ *vb* -ED/-ING/-S *vt* **1** : to cause to adhere : UNITE, FASTEN ⟨the town ~s them all to its own atmosphere —Waldo Frank⟩ **2** : to combine (words) into a compound : attach (a linguistic form) to a base as an affix **3** : to cause (as blood cells) to undergo agglutination ~ *vi* **1** : to unite or combine into a group or mass ⟨groups . . . coalesced, fragmented, *agglutinated* again —John Hersey⟩ **2** : to form words by agglutination : be agglutinative ⟨*agglutinating* languages⟩ ⟨the *agglutinating* state of language⟩ **3** : to undergo agglutination

³ag·glu·ti·nate \-ət\ *n* -s : a clump of material (as blood cells or bacteria) that has undergone agglutination

ag·glu·ti·na·tion \ˌ=ˌ=ˈāshən\ *n* -s **1** : the action or process of uniting or adhering : an agglutinated condition ⟨the ~ of foreign bodies⟩ **2** : a mass or group formed by the union of separate elements ⟨a boundless ~ of streets, dramshops, and low buildings —A.J.Liebling⟩ **3** : the formation of derivative or compound words by putting together constituents of which each expresses a single definite meaning (as in Wishram, a Chinook dialect, in which *ačimlúda* "he will give it to you" has the constituents *a-* "future", *-č-* "he", *-i-* "him", *-m-* "thee", *-l-* "to", *-ud-* "give", and *-a* "future", as contrasted with Latin, in which the *-o* of *amo* "I love" expresses the meanings of first person, singular number, present tense, active voice, and indicative mood) **4** : a reaction in which particles (as red blood cells, bacteria, virus particles, or rickettsiae) suspended in a liquid collect into clumps or floccules with loss of motility in the case of flagellated or ciliated organisms and which occurs when the suspension is treated with certain substances that combine with the surface of the particles — see AGGLUTINATION TEST, CROSS AGGLUTINATION

agglutination test *n* : any of several tests based on the ability of a specific serum to cause agglutination of a suitable system and used in the diagnosis of infections, the identification of microorganisms, and in blood grouping — compare WIDAL TEST

ag·glu·ti·na·tive \ˈ=ˌ=ˌād·iv, -ˌəd·iv\ *adj* **1** : causing or produced by agglutination : ADHESIVE **2** : characterized by agglutination ⟨an ~ language⟩ — distinguished from *inflectional* and *isolating*

ag·glu·ti·nin \ˌ=ˈ=ən\ *n* -s [ISV *agglutin*ation + *-in;* prob. orig. formed in G] : a substance producing agglutination; *specif* : any antibody capable of effecting the agglutination of the agglutinogen that stimulated its production — see HEMAGGLUTININ

ag·glu·tin·o·gen \ˌa(ˌ)glüˈtinəjən\ *n* -s [ISV *agglutin*in + *-o-* + *-gen*] : any substance that acting as an antigen stimulates the production of an agglutinin — **ag·glu·tin·o·gen·ic** \ˈ=(ˌ)=ˌ=ˈjenik, ȧˌglütˈ³nəˈ-\ *adj*

ag·glu·ti·noid \əˈglütˈ³nˌȯid, aˈ-\ *n* -s [ISV *agglutin*in + *-oid*] : an agglutinin that has lost or never had the power to agglutinate but can still unite with its agglutinogen — compare ANTIBODY, BLOCKING ANTIBODY

ag·gra·da·tion \ˌagrəˈdāshən\ *n* -s [*aggrade* + *-ation*] : a modification of or the process of modifying the earth's surface in the direction of uniformity of grade or slope by deposition (as of detrital material in a river bed) — compare DEGRADATION

ag·gra·da·tion·al \ˈ=ˌ=shənᵊl, -shnəl\ *adj* : relating to, characterized by, or formed by aggradation

ag·grade \əˈgrād, aˈ-\ *vb* -ED/-ING/-S [*ad-* + *grade*] *vt* : to fill with detrital material ⟨silt has *aggraded* the river bed and waterlogged it for a hundred miles —Erna Fergusson⟩ ~ *vi* : to build up by aggradation ⟨meltwater streams were *aggrading* beyond the moraines —R.J.Lougee⟩

ag·gran·dize \əˈgranˌdīz, -aan-; ˈagrənˌ-, ˈaig-\ *vt* -ED/-ING/-S [modif. (influenced by *-ize*) of F *agrandiss-* stem of *agrandir*, fr. *a-* (fr. L *ad-*) + *grandir* to increase, fr. L *grandire*, fr. *grandis* great — more at GRAND] **1** : to make great (as in degree, number, or size) : INCREASE, AUGMENT ⟨all he desired was to ~ his estate —Hilaire Belloc⟩ **2** : to make great or greater (as in power, honor, or wealth) ⟨to ~ his family and his favorites Sixtus caused wars —R.A.Hall b. 1911⟩ **3** : to make appear great or greater : EXALT ⟨in *aggrandizing* the one, he necessarily depreciated the other⟩ **syn** see EXALT

ag·gran·dize·ment \əˈgrandəzmənt, -aan- *also* əˈgra(a)nˌdīz-; *also* ˈagrənˌdīz- *or* ˈaig- *or* ˌ=ˈ=ˌ=\ *n* -s [modif. (influenced by *-ize*) of F *agrandissement*, fr. *agrandiss-* + *-ment*] : the act, action, or result of aggrandizing : ADVANCEMENT ⟨their ~ from low estate to social prominence⟩ : ENLARGEMENT ⟨critics of his ~ of federal power —B.N.Cardozo⟩

ag·gran·diz·er \əˈgra(a)nˌdīzə(r), ˈa(i)grənˌ-\ *n* -s : one that aggrandizes

aggrate *vt* -ED/-ING/-S [It *aggratare*, alter. of *aggradare*, fr. Prov *agradar*, fr. *a-* (fr. L *ad-*) + *grat* pleasing, agreeable (fr. L *gratus*) — more at GRACE] *obs* : to gratify or express gratitude to

ag·gra·vate \ˈagrəˌvāt, ˈaig-, *usu* -ād·+V\ *vt* -ED/-ING/-S [L *aggravatus*, past part. of *aggravare* to make heavier, fr. *ad-* + *gravare* to burden, fr. *gravis* heavy — more at GRIEVE] **1** *obs* **a** : to make heavy : weigh down : BURDEN ⟨a great grief *aggravateth* the heart that suffers it —Bartholomew Young⟩ **b** : to add weight to : INCREASE, MAGNIFY ⟨then, soul, live thou upon thy servant's loss and let that pine to ~ thy store —Shak.⟩ **2** *archaic* : to give an exaggerated representation of : EXAGGERATE ⟨I have not . . . *aggravated* your sense or words —Andrew Marvell⟩ **3** : to make worse, more serious, or more severe : INTENSIFY ⟨such a defense only *aggravated* the offense —R.W.Southern⟩ ⟨the war . . . had *aggravated* the confusions and social disasters of rapid industrial change —J.H.Plumb⟩ **4 a** : to arouse the displeasure, impatience, or anger of : PROVOKE, ANNOY ⟨nothing so ~s an earnest person as a passive resistance —Herman Melville⟩ **b** : to produce inflammation in : IRRITATE ⟨the operation *aggravated* the ulnar nerve⟩ **syn** see INTENSIFY, IRRITATE

aggravated assault *n* : an assault regarded as more heinous than a common assault: as **a** : an assault combining an intent to commit a crime other than that involved in the mere assault itself **b** : any of various assaults so defined by statute

aggravated larceny *n* : larceny attended with aggravating circumstances (as when the theft is from the person)

aggravating *adj* **1** : making worse : INTENSIFYING **2** : arousing displeasure, impatience, or anger : EXASPERATING, IRRITATING — **ag·gra·vat·ing·ly** \ˈ=ˌ=ˌ=\ *adv*

ag·gra·va·tion \ˌ=ˈvāshən\ *n* -s [ML *aggravation-*, *aggravatio*, fr. L *aggravatus* + *-ion-*, *-io* -ion] **1** : the act, action, or result of aggravating; *esp* : an increasing in seriousness or severity ⟨in order to prevent an ~ of the problem⟩ **2** : an act or circumstance that intensifies or makes worse ⟨an ~ to a person in slavery to reflect that he was sold by his parent —Thomas Paine⟩ **3** *obs* : an exaggerated statement or representation ⟨I from ~s will forbear —George Wither⟩ **4** : the act or action of irritating or annoying : PROVOCATION ⟨~s between people South and North were getting worse —Carl Sandburg⟩

ag·gra·va·tor \ˈ=ˌ=ˌvād·ə(r)\ *n* -s : one that aggravates

ag·gre·ga·ble \ˈagrəgəbəl, ˈaig-, -rē-\ *adj* [²*aggregate* + *-able*] : that may be aggregated ⟨property ~ with other property⟩

¹ag·gre·gate \-gət *also* -ˌgāt; *usu* -d·+V\ *adj* [ME *aggregat*, fr. L *aggregatus*, past part. of *aggregare* to add to, fr. *ad-* + *greg-*, *grex* flock — more at GREGARIOUS] **1** : formed by the collection of units or particles into a body, mass, or amount : COLLECTIVE ⟨the ~ sentiments of mankind —J.F.Byrnes⟩ : **a** (1) *of a flower* : clustered in a dense mass or head (2) *of a fruit* : formed from the several separate or fused ovaries of a single flower — distinguished from *multiple;* see FRUIT illustration **b** *of a rock* (1) : composed of mineral crystals of one or more kinds (2) : composed of mineral or rock fragments **c** (1) *of a colonial animal* : united in a somewhat continuous mass (2) *of a hibernating animal* : gathered into a compact mass **d** : formed into clusters or groups of lobules **2** : AGGREGATIVE 2 — **aggregately** *adv* — **aggregateness** *n* -ES

²ag·gre·gate \-ˌgāt, *usu* -ād·+V\ *vb* -ED/-ING/-S *vt* **1** : to collect or gather into a mass or whole : bring together ⟨wealth *aggregated* by their industrial and commercial skill —Will Durant⟩ **2** : to make a part of the aggregate : unite as a constituent member ⟨these people are now *aggregated* with us —Thomas Jefferson⟩ **3** : to amount in the aggregate to : form an aggregate of ⟨audiences *aggregating* a million people⟩ ~ *vi* : to come together : ASSEMBLE ⟨people . . . abandon their normal occupations, ~ in predesignated places —Anatol Rapoport⟩

³ag·gre·gate \-gət *also* -ˌgāt; *usu* -d·+V\ *n* -s **1** : a mass or body of units or parts somewhat loosely associated with one another ⟨an ~ of individuals actuated by economic self-interest —Douglas Bush⟩ **2** : the whole sum or amount : SUM TOTAL ⟨the ~ of knowledge . . . is greater than ever before —C.H.Grandgent⟩ **3 a** : an aggregate rock **b** : any of several hard inert materials used for mixing in various-sized fragments with a cementing material to form concrete, mortar, or plaster **c** : a clustered mass of individual soil grains or particles varied in shape, ranging in size from a microscopic granule to a small crumb, and usu. considered the basic structural unit of soil **4 a** : a total comprising all the elements or individuals in a particular category or a group of categories in an economy **b** *Brit* : the sum total of grades made by a student **5** : a set of mathematical elements having some property in common ⟨the ~ of rational numbers⟩ **syn** see SUM — **in the aggregate** : considered as a whole : COLLECTIVELY ⟨dividends for the year amounted *in the aggregate* to $60,000⟩

aggregated *adj* **1** : gathered into a whole : AGGREGATE ⟨the ~ masses in . . . the cells —C.R.Darwin⟩ **2** : containing aggregates ⟨a highly ~ soil⟩

aggregate mortality table *n* : an insurance mortality table based on both newly medically selected lives and lives from which the effect of selection has been eliminated

aggregate polarization *n* : polarization by a rock section in which the constituent minerals cannot be individually recognized

aggregate ray *n* : a group of rays in certain woods appearing at low magnification as a single vascular ray but consisting of smaller rays, fibers, and sometimes vessels — called also *compound ray*

ag·gre·ga·tion \ˌagrəˈgāshən, ˌaig-, -rē-\ *n* -s [MF or ML; MF *agregation*, fr. ML *aggregation-*, *aggregatio*, fr. L *aggregatus* + *-ion-*, *-io* -ion] **1 a** : the action or process of aggregating : the collection of units or parts into a mass or whole ⟨learning is . . . the ~ of many men's sentences —William Baldwin⟩ **b** : the state or condition of being aggregated or of having aggregates ⟨in most soils . . . there is only a partial ~ of the various particles —L.D.Baver⟩ **2** : a group, body, or mass composed of many distinct parts : ASSEMBLAGE ⟨one of the world's largest ~s of industry⟩ ⟨a musical ~ touring the small towns⟩: as **a** : a collection of individuals gathered together in response to the same external conditions **b** : an assemblage of animals of one or more species usu. come together in response to an external stimulus (as drought) **3** *patent law* : the bringing together of two or more separate parts without changing their function or producing any result other than the sum of the results of the separate operation of the parts **4** : the condensation or movement of the contents of cells, esp. those of tentacles or tendrils of insectivorous or sensitive plants, in response to stimuli **5** *ecol* **a** : ASSOCIATION 8 **b** : SOCIETY

ag·gre·ga·tive \ˈ=ˌ=ˌgād·iv, -ātiv, -ēv\ *adj* **1** : of, relating to, or tending toward aggregation ⟨an ~ process⟩ **2** : of or relating to aggregates, specif. economic aggregates ⟨~ terms⟩

aggrege *vt* -ED/-ING/-S [ME *aggreggen*, fr. MF *agregier*, fr. (assumed) VL *aggraviare*, *aggreviare*, alter. of L *aggravare* to make heavier — more at AGGRAVATE] *obs* : to make graver : AGGRAVATE

ag·gress \əˈgres *also* aˈ-\ *vb* -ED/-ING/-S [LL *aggressus* attack, fr. L *aggressus*, past part. of *aggredi* to approach, attack, undertake, fr. *ad-* + *-gredi* (fr. *gradi* to step, go) — more at GRADE] *vi* : to make an attack : commit aggression ⟨westerners even ~*ed* against one another —A.E.Stevenson b. 1900⟩ ~ *vt* : to set upon : ATTACK ⟨lions . . . seeking whom they may ~ —*Saturday Rev.*⟩

ag·gres·sin \-sᵊn\ *n* -S [ISV *aggress-* (fr. LL *aggressus*) + *-in;* orig. formed in G] : a hypothetical substance held to contribute to the virulence of pathogenic bacteria by paralyzing the defensive mechanisms of the host, esp. the leukocytes, and held to be produced by the bacteria in the body of the host

ag·gres·sion \əˈgreshən *also* aˈ-\ *n* -S [F & L; F *aggression*, fr. L *aggression-*, *aggressio*, fr. *aggressus* + *-ion-*, *-io* -ion] **1 a** : an offensive action or procedure; *esp* : a culpable unprovoked overt hostile attack ⟨we have borne with their ~s —Thomas Jefferson⟩ **b** : the practice of making attacks or encroachments : offensive tactics ⟨a war of ~⟩ **2** : the action of a nation in violating the rights, esp. the territorial rights, of another nation (as by unprovoked attack, invasion, or other unfriendly military action or sometimes by serious threat of or preparation for such action) ⟨that country was said to be guilty of ~⟩ **3** : a form of psychobiologic energy, either innate or arising in response to or intensified by frustration, which may be manifested by (1) overt destruction, fighting, infliction of pain, sexual attack, or forcible seizure, (2) covert hostile attitudes, covetousness, or greed, (3) introjection into one's self (as self-hate or masochism), (4) sublimation into play or sports, or (5) healthy self-assertiveness or a drive to accomplishment or to mastery esp. of skills

ag·gres·sive \-esiv, -ēv\ *adj* **1 a** : tending toward, characterized by, or practicing aggression ⟨her ~ behavior⟩ ⟨an ~ nation⟩ **b** : marked by combative readiness or bold determination : not conciliatory : MILITANT ⟨an ~ fighter⟩ **2 a** : marked by driving forceful energy, ambition, or initiative : ENTERPRISING ⟨an ~ salesman⟩ ⟨~ leadership⟩ **b** : marked by obtrusive energy and self-assertiveness : demanding or attracting attention : SELF-CONFIDENT ⟨swaggering, blatant, and idiotically ~ vulgarity —George du Maurier⟩ **3 a** : promoting or accessory to aggression in predaceous animals (as insects) esp. by concealment or disguise ⟨an ~ trait⟩ **b** *bot* : spreading with vigor ⟨~ weeds⟩ **c** : chemically active ⟨~ waters⟩ **d** : tending or able to utilize a variety of habitats : able to encroach on occupied areas : variable and adaptable — used of organisms and taxa ⟨an extremely ~ subspecies⟩

syn MILITANT, ASSERTIVE, SELF-ASSERTIVE, PUSHING, PUSHFUL: AGGRESSIVE may apply either to zealous loyalty to causes or to personal ambitions and aims; it suggests forceful and confident procedures and attitudes, sometimes truculent contentiousness or cavalier treatment of others ⟨positive in his convictions, *aggressive* and imperious, he became a zealot in any cause he embraced —F.L.Hise⟩ ⟨as intolerant and *aggressive* as any of the traditional satirists —C.D.Lewis⟩ MILITANT, complimentary except for suggestions of doctrinaire intractability, applies to fervent, resolute, devoted furthering of a cause ⟨the *militant* suffragist nuisance —Rose Macaulay⟩ ⟨*militant* in fighting to get for workers a larger share of the national income —*Time*⟩ ASSERTIVE suggests bold self-confidence and determination in expression of opinion ⟨an *assertive*, opinionated, likable fellow, ready to fight, drink, dance, shoot, or brag —V.L. Parrington⟩ ⟨to say, with some challenging *assertive* people, that trees are more beautiful than flowers —E.V.Lucas⟩ SELF-ASSERTIVE, usu. uncomplimentary, generally connotes obtrusive, crass forwardness or brash self-confidence ⟨the social and political revolt beginning in the new middle class against the Tory aristocracy found more vigorous expression in the *self-assertive* and ubiquitous energy of Henry Brougham —G.M.Trevelyan⟩ ⟨*self-assertive* and ill-bred bourgeois —Edmund Wilson⟩ PUSHING and PUSHFUL may praise by indicating ambition, energy, and enterprise ⟨an energetic, *pushing* youth, already intent on getting on in the world —Sherwood Anderson⟩ ⟨the *pushful* energetic man of business —Aldous Huxley⟩ or blame by indicating snobbish or crude intrusiveness ⟨a *pushing* sort, forever exposing themselves to the slights arising from their own undesirability —Mary Austin⟩ ⟨ignorant, *pushful*, impatient of restraint and precedent —H.L.Mencken⟩

aggressively *adv* : in an aggressive manner

ag·gres·sive·ness *or* **ag·gres·siv·i·ty** \ˌagreˈsivəd·ē, ˌa,g-\ *n* -ES : the quality or state of being aggressive : AGGRESSION

ag·gres·sor \əˈgresə(r) *or* -ȯ(ə)r\ *n* -S [LL, fr. L *aggressus* + *-or*] **1** : one that commits or practices aggression; *esp* : a nation that commits an act of aggression ⟨economic insecurity and poverty . . . breed conflict and give ~s their chance —E.R.Stettinius⟩ **2 a** : a military force organized, trained, and deployed to act as the enemy during a field problem or in maneuvers **b** : a member of such a force

ag·griev·ance \əˈgrēvən(t)s *also* aˈ-\ *n* -S [ME *agrevaunce*, fr. MF *agrevance*, fr. *agrever* + *-ance*] : GRIEVANCE

ag·grieve \əˈgrēv *also* aˈ-\ *vt* -ED/-ING/-S [ME *agreven*, fr. MF *agrever*, fr. L *aggravare* to make heavy — more at AGGRAVATE] **1** : to give pain, sorrow, or trouble to : GRIEVE, DISTRESS ⟨I was *aggrieved* it did not include so notable a plant —Andrew Young⟩ **2** : to inflict injury upon : OPPRESS, WRONG ⟨provisions should be made for recourse to the courts by parties who may be *aggrieved* by such orders —S.T.Powell⟩ **syn** see WRONG

aggrieved *adj* [ME *agreved*, fr. past part. of *agreven*] **1** : troubled or distressed in spirit ⟨he spoke like one ~⟩ **2 a** : showing grief, injury, or offense ⟨did not understand the ~ attitude of the mate —Joseph Conrad⟩ **b** : having a grievance; *specif* : suffering from an infringement or denial of legal rights ⟨compensation paid to the ~ party⟩ — **ag·griev·ed·ly** \-vədlē, -li\ *adv*

ag·group \əˈgrüp, aˈ-\ *vt* -ED/-ING/-S [F *agrouper*, fr. *a-* (fr. L *ad-*) + *groupe* group — more at GROUP] : to arrange in a group ⟨were ~*ed* near the center of the square⟩ — **ag·group·ment** *n* -S

ag·gry bead *also* **ag·gri bead** \ˈagrē-\ *n* [of African origin; akin to Hausa *gori* snail shell used as an ornament, Twi *agyiratwefá*, a weight of gold, *gyirapaw*, a charm] : a variegated glass bead found buried in the earth in Ghana and in England

THE COMPACT EDITION OF THE OXFORD ENGLISH DICTIONARY

COMPLETE TEXT
REPRODUCED MICROGRAPHICALLY

VOLUME I
A–O

OXFORD UNIVERSITY PRESS

Oxford University Press, Walton Street, Oxford OX2 6DP
OXFORD LONDON GLASGOW
NEW YORK TORONTO MELBOURNE WELLINGTON
KUALA LUMPUR SINGAPORE JAKARTA HONG KONG TOKYO
DELHI BOMBAY CALCUTTA MADRAS KARACHI
IBADAN NAIROBI DAR ES SALAAM CAPE TOWN

Library of Congress Catalogue Card Number: 76-188038

First Published 1971
Reprinted 1972, 1974, 1977, 1979
Twenty-Third Printing in U.S., January 1984

Printed in the United States of America

Libeller labours to aggrege. 1676 W. Row *Suppl. Blair's Autobiog.* xi. (1848) 363 He did [as he could] aggrage Mr. James Sharp's great pains and travels for the good of the Kirk.

6. To allege as a grievance; to charge.

a 1600 *Egerton Pap.* 226 (Halliw.) Neither dyd I euer put in question yf I shoulde do you right, as you appeare to agreage.

7. To load, heap. (Perh. confused with later Fr. *agréger* = L. *aggregāre*. The Latin is *aggerat iras*.)

1513 Douglas *Æneis* xi. vii. 112 Aggregeing on him wraith and malice large.

¶ **Aggrege** seems to have been obs. in Eng. *a* 1500, though retained in Scotland. In 1554 it was so unknown that Tottel changed Lydgate's *agrege* in the following passage to *agregate*, quite a different word. So in mod. Fr. *agréger* is treated as the equivalent of L. *aggregare*.

c 1430 Lydg. *Bochas* III. xx, Some tonges . . Whan they perceyue that a prince is meved To agreg hys yre do their busy cure [*ed.* 1554 Tagregate his yre do their busy cure].

†**Aggre'ss,** *sb. Obs.* [ad. L. *aggress-us* an attack, f. *aggredi* to approach, attack: see Aggress *v.*] Attack, aggression.

1678 Hale *Pleas of Crown* xv. (T.) Not only to mutual defence, but also to be assisting to each other in their military aggresses upon others. 1698 J. Norris *Pract. Disc.* IV. 383 Upon the very first Aggress.

Aggress (in *Her.*) obs. variant of Ogress.

Aggre'ss (ăgre's), *v.* [a. Fr. *aggresse-r* (Cotgr.) earlier *agresser*, ad. med. and ?late L. *aggressāre*, freq. of *aggred-i* to approach, attack, f. *ad* to, at + *grad-i* to march, step.]

†**1.** *intr.* To approach, march forward. *Obs.*

c 1575 *Cambyses* in Hazl. *Dodsl.* IV. 172 Behold, I see him now aggress, And enter into place.

2. *intr.* To make an attack; to set upon; 'to commit the first act of violence; to begin the quarrel.' J. Const. *on.*

a 1714 Prior *Ode to Q. Anne* (J.) Tell aggressing France How Britain's sons, and Britain's friends can fight. 1837 J. Harris *Gt. Teacher* 290 The only domains on which his empire aggresses. 1851 H. Spencer *Soc. Stat.* xxi. § 8 The moral law says—Do not aggress.

3. *trans.* To set upon, attack, assault.

1775 Ash, *Aggress, v.t.* to set upon, to attack, to begin a quarrel. 1882 *Sat. Rev.* 25 Feb. 225 Roaring lions to be going about seeking whom they may aggress (the verb, though little used, is strictly in accordance with analogy).

Aggressed, bad spelling of Agrest *a.*

Aggressing (ăgre'siŋ), *vbl. sb.* [f. prec. + -ing¹.] The action of attacking; commencing an attack.

1879 H. Spencer *Data of Ethics* viii. § 52. 139 Whether men live together in quite independent ways, careful only to avoid aggressing.

Aggressing (ăgre'siŋ), *ppl. a.* [f. as prec. + -ing².] Commencing the attack, assailing.

a 1714 [See Aggress *v.* 2]. 1775 Adair *Amer. Indians* 380 The aggressing party usually send . . a friendly embassy to the other, praying them to accept of equal retribution.

Aggression (ăgre'ʃən). [a. Fr. *agression*, formerly *aggr-* (16th c. in Littré); ad. L. *aggressiōn-em* n. of action f. *aggred-i*: see Aggress *v.*]

1. An unprovoked attack; the first attack in a quarrel; an assault, an inroad.

1611 Cotgr., *Aggression*, an aggression, assault, incounter, or first setting on. 1693 J. Owen *Holy Spirit* 227 An extraordinary Aggression was to be made upon the Kingdom of Sathan. 1793 T. Jefferson *Writings* (1859) IV. 12 We have borne with their aggressions. 1818 Scott *Hrt. Midl.* 31 An unjust aggression upon their ancient liberties. 1830 Lyell *Princ. Geol.* (1875) II. III. xliv, The sand drift is making aggressions at certain points.

2. The practice of setting upon any one; the making of an attack or assault.

a 1704 L'Estrange (J.) There may be also . . a conspiracy of common enmity and aggression. 1721 Bailey, *Aggression*, setting upon. 1776 Adam Smith *W. N.* I. Pref. 11 The business of government is to check aggression only. 1799 Wellington in *Gen. Desp.* I. 17 A war of agression against the Company. 1851 M'Culloch *Taxation* III. i. 410 Hostile aggression and insult must be opposed and avenged. 1868 Peard *Water-farming* xv. 158 The stock . . will be safe from aggression.

Aggressive (ăgre'siv), *a.* [f. L. *aggress-* ppl. stem of *aggred-i* (see Aggress *v.*) + -ive. Cf. mod. Fr. *agressif, -ive.*]

1. Of or pertaining to aggression; of attack; offensive.

[Not in Todd 1818, Richardson 1836-55. In Craig 1847.] 1824 Syd. Smith *Wks.* 1869, 468 Jealous of the aggressive pleasantry of more favoured people. 1837 Palmerston *Opin. & Pol.* (1852) 362 The only Country in which financial difficulties constitute an obstacle to aggressive warfare. 1876 Freeman *Norm. Conq.* I. ii. 36 An aggressive war, as distinguished from mere plundering inroads.

absol., quasi-*sb.* The aggressive (sc. course).

1845 Ford *Handbk. Spain* I. ii. 311 Soult . . at once assumed the aggressive.

2. Tending or disposed to attack others.

1840 Milman *Hist. Chr.* (1875) II. 208 To follow any rigorous impulse in a determined and incessantly aggressive few. 1868 Peard *Water-farming* xvi. 163 Pike, and perch, the most quarrelsome, and aggressive fish. 1869 Seeley *Ess. & Lect.* ii. 43 It included warlike and aggressive nations.

Aggressively (ăgre'sivli), *adv.* [f. prec. + -ly².] In an aggressive manner; offensively.

[Not in Craig 1847.] 1849 Palmerston *Opin. & Pol.* (1852) 479 The impression—that England . . never will be found acting aggressively against any other power. 1865 Mill *Represent. Gov.* 35/1 What then prevents the same powers from being exerted aggressively? 1882 Sturgis *Dick's Wandering* I. i. ix. 116 Two gentlemen of an aggressively artistic appearance.

Aggressiveness (ăgre'sivnės). [f. Aggressive + -ness.] The quality of being aggressive; the disposition to attack others.

[Not in Craig 1847.] 1859 *Bentley's Q. Rev.* No. 3. 24 To secure Europe from the insatiable aggressiveness of France. 1881 Masson *Carlyle* in *Macm. Mag.* XLV. 154 His fearlessness and aggressiveness in speech.

Aggressor (ăgre'sə1). [a. L. *aggressor* n. of agent, f. *aggredi*: see Aggress *v.*; cf. Fr. *agresseur*, 16th c. in Littré.] He who sets upon, attacks, or assails another; he who makes the first attack, or takes the first step in provoking a quarrel.

[Not in Cotgr. 1611-50, who renders Fr. *aggresseur*, an assailer or assaulter, hee that gives the onset, or first layes hands on his weapon, to do another violence.] 1678 Phillips, *Aggressour*, an assailer of another, a beginner of a business. 1684 Burnet tr. *More's Utopia* 155 To defend themselves, or their Friends, from any unjust Aggressors. 1701 *Lond. Gaz.* mmmdccxiii/2 The French were the first Aggressors, by seizing all the Boats. 1768 Blackstone *Comm.* I. 259 He may attack and seise the property of the aggressor nation. 1851 Mariotti *Italy* I. 44 The Austrian was the aggressor.

†**Aggresteyne.** *Obs.* A disease of the tail feathers of hawks.

1496 *Bk. St. Albans* iv, Whan ye se your hawke hurte hir fete wyth hir beke: and pullyth her tayle thenne she hath the aggresteyne. [In Phillips, Bailey, and Ash, with mere reference to the foregoing passage.]

‖ **Aggri:** see Aggry.

†**Aggrie'vance** (ăgrī'văns). Also 5–6 agreuaunce, aggr-, 6 agreeuance. [a. OFr. *agrevance*, n. of action f. *agrever*: see Aggrieve and -ance.]

†**1.** That which burdens or oppresses; a burden, trouble, or hardship; a grievance. *Obs.*

1440 *Promp. Parv.*, Aggreuauns, *Gravamen, nocumentum, tedium.* 1599 Fenton *Guicciardin* xvii. 781 For remedie of which aggreeuances . . the people . . determined to resist with their weapons. 1649 Ball *Power of Kings* 2 That . . our Kings should Redresse such Agrievances as they should complaine of. 1664 H. More *Myst. Iniq.* xvi. 38 Those great agonies and aggrievances of spirit that the true members of Christ are cast into by beholding such abominable practices.

2. The action of aggrieving, troubling or annoying; oppression.

1587 J. Hooker *Hist. Irel.* in *Holinsh.* II. 172 To the aggreeuance of good subiects, & to the incouragement of the wicked. 1596 B. Griffin *Fidessa* (1876) 28 Vntoward subiect of the least aggrieuance. 1819 Foster *Pop. Iguor.* (1834) 4 The aggrievance of things which inevitably continue in our presence.

†**3.** Aggravation. (See Aggrieve 3.) *Obs.*

1506 *Ord. Cryten Mew* (W. de Worde) IV. xxv. 311 It is also agreuaunce of synne more or lesse of as moche that a man eteth many tymes.

Aggrieve (ăgrī'v), *v.* Forms: 4-5 agreue, agreve, 5–6 aggreue, 6 agreeue, aggreeue, agrieve, 6– aggrieve. [a. OFr. *agreve-r* to render more heavy or severe:—L. *aggravā-re*: f. *ag-* = *ad-* to + *gravā-re* to load. In 14th c. the Fr. and in 15th c. the Eng. began, after L., to be written *agg-* and finally the Fr. was changed to *aggraver*. See also Aggravate, Aggrave, and Aggregе.]

1. *trans.* To bear heavily upon; to bring grief or trouble to; to grieve, distress, afflict, oppress. Now rarely used exc in the passive *To be aggrieved*: to be injuriously affected, to have a grievance or cause of grief.

1330 R. Brunne *Chron.* 323 Of þat ilk outrage þe fest þam sore agreued. *c* 1425 Wyntoun *Cron.* IX. Pref. 38 Elde me masteris wyth hir Brevis Ilke day me sare aggrevis. *c* 1450 Lonelich *Grail* lii. 343 Agreved was he sore Of tydynges that him comen thore. 1514 Pace in Ellis *Orig. Lett.* I. 37 I. 110 Oon thynge doethe aggreve me ryght sore. *c* 1540 tr. *Pol. Verg., Eng. Hist.* (1846) I. 199 They aggreeved the inhabitantes with infinite mischeves. 1670 G. H. tr. *Hist. Cardinals* III. II. 289 They shall not permit the Cardinals to be aggrieved by any body. *a* 1716 South *Serm.* viii. 11 (T.) Those pains . . are afflictive just so long as they actually possess the part which they aggrieve. 1849 Macaulay *Hist. Eng.* I. 16 Both were alike aggrieved by the tyranny of a bad king.

†**2.** *intr.* To afflict oneself, to grieve, to feel grief. *Obs.*

1559 *Mirrour for Mag.* 442 (T.) My heart aggriev'd that such a wretch should reign.

†**3.** *trans.* To make more grave or serious; to aggravate, exaggerate. (= Aggrege 3, 5.) *Obs.*

1524 *State Pap. Hen. VIII*, IV. 154 Agrieving somewhat the daungier whiche might ensue. 1541 Elyot *Im. Gov.* 44 But yet the treason dooen also to me, aggreeueth the trespasse. 1562 Atkinson in Strype's *Ann. Ref.* xxvi. (1709) 265 Let us therefore never go about to aggrieve the matter, or make it worse than it is. 1590 Southwell *Marie Magd. Funeral Teares* 195 Want of faith was agrieved with want of all goodnesse.

Aggrieved (ăgrī'vd), *ppl. a.* [f. prec. + -ed.]

†**1.** Oppressed or hurt in spirit; distressed, troubled, annoyed, vexed (*with, at*). *Obs.* replaced by *grieved.*

c 1350 *Will. Palerne* 266 Gob til him swipe leist he agreued wex. *c* 1385 Chaucer *Leg. G. Wom.* 345 A God ne sholde nat be thus agreved, But of hys deitee he shal be stable. 1477 Earl Rivers (Caxton) *Dictes* 77 He was gretely agreued with suche as helde the same opynyon. 1513 Douglas *Æneis* II. xi. 111 Grete Goddis semand with Troy aggreuit. 1557 Surrey *Æneid* II. (R.) And great gods eke aggreued with our town. 1577 tr. *Bullinger's Decades* (1592) 561 Agreeued at, or ashamed of the thing that they haue done.

2. Injured or wronged in one's rights, relations, or position; injuriously affected by the action of any one; having cause of grief or offence, having a grievance (*at, by*).

1590 Marlowe *1st Pt. Tambur.* I. i. 1 Brother Cosroe, I find myself agrieved. 1643 Milton *Divorce* (1851) II. 25 The agrieved person shall doe more manly, to be extraordinary and singular in clayming the due right whereof he is frustrated. 1790 Cowper *Iliad* I. 757 My mother, be advised, and though aggrieved Yet patient. 1859 T. Lewin *Invas. Brit.* 61 The Britons were as much the aggrieved as the aggressive party. 1870 Bowen *Logic* ix. 293 The Catholics had a right to feel aggrieved that these laws should be permitted to remain in the statute book.

†**3.** Injured physically; hurt, afflicted. *Obs.*

1725 Bradley *Fam. Dict.* s.v. *Sprain*, Rub and chafe it upon the aggrieved place. 1783 P. Pott *Chirurg. Wks.* II. 278 What disorders the aggrieved part is naturally liable to.

†**4.** Aggravated, exaggerated. *Obs.*

1513 More *Richd. III*, Wks. 1557/2 Smal matters agreuid with heinouse names. 1559 *Myrroure for Mag., Glouc.* xxi. 1 Aggreued was also this latter offence, With former matter.

†**Aggrie'vedness.** *Obs. rare.* [f. prec. + -ness.] The quality or state of being aggrieved; the feeling of injury causing grief.

1596 Carew tr. *Huarte's Trial of Wits* xiii. 234 Through this aggreeuednes, the naturall heat encreaseth.

Aggrievement (ăgrī'vmėnt). *rare.* [f. Aggrieve *v.* + -ment after *amendment*, etc.] The action of aggrieving; aggrievance.

1847 Mrs. Gore *Castles in Air* II. i. 5 Whether Sir Robert went to the grave aware or unaware of the bitterness of his aggrievements.

Aggrieving (ăgrī'viŋ), *vbl. sb.* [f. Aggrieve + -ing¹.] The bringing of grief or trouble upon; giving cause of trouble to; annoying.

1440 *Promp. Parv.*, Aggruggynge, or a-greuynge. *Aggravacio, aggravamen.*

Aggrieving (ăgrī'viŋ), *ppl. a.* [f. as prec. + -ing².] Annoying, vexing; vexatious.

1841 Gen. P. Thompson *Exerc.* (1842) VI. 1 Sending spies . . with directions to make every aggrieving and wounding report which rancour could devise.

Aggroup (ăgrū'p), *v.* [a. Fr. *agroupe-r* (17th c.) to put into a group; f. *à* to + *grouper* to group, prob. due to phr. *à groupe*. Would be better spelt *agroup.*] *trans.* To form or arrange in a group or groups; to Group. Also *intr.* (for *refl.*) (Orig. a term of art.)

1695 Dryden *Art of Painting* § 132 (R.) They aggrouppe, and contrast each other in the same manner as figures do. *a* 1700 — (J.) Bodies of divers natures, which are aggrouped (or combined) together. *a* 1760 J. Browne *Design & Beauty* (1768) 103 Aggroupe the figures here, and there oppose.

Aggrouped (ăgrū'pt), *ppl. a.* [f. prec. + -ed.] Arranged in a group; grouped.

1864 R. F. Burton *Dahome* I. 219 The King and Fanti cortège then stood aggrouped to the west of the square.

Aggroupment (ăgrū'pmėnt). Also **agr-**. [f. Aggroup *v.* + -ment.] Arrangement in a group or groups.

1862 *Art Jrnl.* June 150 The time is sunset, and the mass of the broadcast aggroupment is in shade. 1864 Webster, *Agroupment.* 1874 Boutell *Arms & Armour* iii. 42 The remarkable and celebrated aggroupment or formation known under this term 'phalanx.'

†**Aggru'dge,** *v. Obs. rare*; also 6 agrudge, [f. *ag-* (= A- *pref.* 11) + Grudge.] To grumble, express dissatisfaction or annoyance.

1470 Dk. of Clarence in Ellis *Orig. Lett.* II. 42 I. 136 We . . aggrudgynge of the greate enormyties and inordinate ympositions . . newly layd upon you. 1530 Palsgr. 419/1, I agrudge, I am a graved, *je suis grevé*, or *je suis courroucé.*

†**Aggru'dged,** *ppl. a. Obs.*; also 5 **aggroggyd.** [f. prec. + -ed.] Dissatisfied, annoyed.

1440 *Promp. Parv.*, Aggroggyd, or aggreuyd, *Aggravatus.*

†**Aggru'dging,** *vbl. sb. Obs.*; also 5 **aggrug-gynge.** [f. Agrudge *v.* + -ing¹.] Grumbling, dissatisfaction, annoyance.

1440 *Promp. Parv.* 8 Aggruggynge, or a-greuynge. *Aggravacio, aggravamen.*

‖ **Aggry, aggri.** A word of unknown origin and meaning, applied to coloured and variegated glass beads of ancient manufacture, found buried in the ground in Africa; they closely resemble the *glain neidyr* or adder stone of the Britons.

1819 Bowdich *Mission to Ashantee* 267 The variegated strata of the aggry beads are so firmly united and so imperceptibly blended, that the perfection seems superior to art. 1876 *Fam. Herald* 9 Dec. 95 Aggry beads . . are supposed to be of ancient Egyptian manufacture. 1882 J. E. Price in *Athenæum* 11 Mar. 321/1 When the Romans occupied the country [Britain], they brought with them many African slaves who wore necklaces with aggri beads attached.

Agh, aghe, obs. forms of Awe, and of Owe.

Agha, variant of Aga.

Aghast (ăgɑ'st), *ppl. a.* Forms: 3-6 **agast,** 6- **aghast.** [Pa. pple. of Agast *v.* to frighten, affright. The fuller Agasted is also found. Cf. *roast* (beef), *roasted.* The unetymological spelling with *gh* appears first in Scotch, *c* 1425 (probably influenced by *ghast, ghaist, ghost*); it became general after 1700.]

1. Affrighted, frightened, terrified. *esp.* in mod.

The Random House College Dictionary

REVISED EDITION

Based on The Random House Dictionary of the English Language

THE UNABRIDGED EDITION

JESS STEIN • EDITOR IN CHIEF

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REVISED EDITION

PUBLISHED IN THE UNITED STATES OF AMERICA BY RANDOM HOUSE, INC., NEW YORK
AND SIMULTANEOUSLY IN CANADA BY RANDOM HOUSE OF CANADA LIMITED, TORONTO

LIBRARY OF CONGRESS CATALOGING IN PUBLICATION DATA
Main entry under title:
The Random House college dictionary.
Based on the Random House dictionary of the English language, unabridged ed.
Published in 1968 under title: The Random House dictionary of the English language, college ed.
1. English language- Dictionaries.
PE1625.R34 1975 423 75-4858 ISBN 0-394-43500-1
ISBN 0-394-43600-8 thumb-indexed ed.

rs e/ud
Manufactured in the United States of America

female, is considered competent to give consent to marriage or sexual intercourse

age′ of discre′tion, *Law.* the age at which a person becomes legally responsible for certain acts and competent to exercise certain powers.

Age′ of Rea′son, any historical period characterized by rationalism, esp. the period of the Enlightenment.

age-old (āj′ōld′), *adj.* ancient; from time immemorial.

ag·er·a·tum (aj′ə rā′təm, ə jer′ə-), *n.* any of several composite plants of the genus *Ageratum*, esp. *A. Houstonianum*, having small, dense, blue or white flower heads, often grown in gardens. [< NL < L *agēraton* < Gk *agḗraton*, neut. of *agḗratos* unaging = *a-* A-6 + *gēra-* (s. of *gêras*) old age + *-os* adj. suffix]

A·ges·i·la·us II (ə jes′ə lā′əs), 444?–c360 B.C., king of Sparta c400–c360

Ag·ga·dah (ə gä′də; *Heb.* ä gä dä′), *n* the nonlegal or narrative material, as parables, maxims, or anecdotes, in the Talmud and other rabbinical literature. Also, **Ag·ga′da, Haggadah.** [< Heb *haggādhāh* < *higgīdh* to narrate] —**Ag·gad·ic, ag·gad·ic** (ə gad′ik, ə gā′dik) *adj.*

ag·ger (aj′ər), *n.* a low tide in which the water recedes to a certain level, rises slightly, then recedes again. Also called **double tide.** [< L: heap, pile = *ag-* AG- + *ger-* s. of *gerere* to carry, bring]

ag·gie[1] (ag′ē), *n.* agate (def 2). [by alter.; see -IE]

ag·gie[2] (ag′ē), *n. Slang.* a student at an agricultural college. [*ag-* (from *agricultural*) + -IE]

ag·glom·er·ate (*v.* ə glom′ə rāt′; *adj., n.* ə glom′ər it, -ə rāt′), *v.*, **-at·ed, -at·ing,** *adj., n.* —*v.t., v.i.* **1.** to collect or gather into a cluster or mass. —*adj.* **2.** gathered together into a cluster or mass. —*n.* **3.** a mass of things clustered together. **4.** rock composed of rounded or angular volcanic fragments. [< L *agglomerāt(us)* (ptp. of *agglomerāre*) = *ag-* AG- + *glomer-* (s. of *glomus* ball of yarn) + *-ātus* -ATE[1]] —**ag·glom·er·a·tive** (ə glom′ə rā′tiv, -ər ə tiv), *adj.* —**ag·glom′er·a′tor,** *n.*

ag·glom·er·a·tion (ə glom′ə rā′shən), *n.* **1.** a jumbled cluster or mass. **2.** the act or process of agglomerating.

ag·glu·ti·nant (ə glo͞ot′ᵊnənt), *adj.* **1.** uniting, as glue; causing adhesion. —*n* **2.** an agglutinating agent. [< L *agglūtinant-* (s. of *agglutināns*, prp. of *agglutināre*) = *agglūtin-* (see AGGLUTINATE) + *-ant-* -ANT]

ag·glu·ti·nate (*v.* ə glo͞ot′ᵊnāt′; *adj., n.* ə glo͞ot′ᵊnit, -ᵊnāt′), *v.*, **-nat·ed, -nat·ing,** *adj., n.* —*v.t., v.i.* **1.** to unite, as with glue. **2.** *Linguistics.* to form by agglutination. —*adj* **3.** united, as by glue **4.** agglutinative. —*n* **5.** something that has agglutinated. [< L *agglūtināt(us)* (ptp. of *agglūtināre*) = *ag* AG- + *glūtin-* (s. of *glūten* glue) + *-atus* -ATE[1]] —**ag·glu·tin·a·bil·i·ty** (ə glo͞ot′ᵊnə bil′i tē), *n.* **ag·glu′tin·a·ble,** *adj*

ag·glu·ti·na·tion (ə glo͞ot′ᵊnā′shən), *n.* **1.** the act or process of uniting by glue or other tenacious substance. **2.** the state of being so united. **3.** a mass or group cemented together. **4.** *Immunol.* the clumping of bacteria, erythrocytes, or other cells, due to the introduction of an antibody. **5.** *Linguistics.* a process of word formation in which morphemes, each having one relatively constant shape, are combined without fusion or morphophonemic change.

ag·glu·ti·na·tive (ə glo͞ot′ᵊnā′tiv, ə glo͞ot′ᵊnə-), *adj.* **1.** tending or having power to agglutinate or unite. **2.** *Linguistics.* (of a language or construction) characterized by agglutination *Hungarian is agglutinative.*

ag·glu·ti·nin (ə glo͞ot′ᵊnin), *n. Immunol.* an antibody that causes agglutination. [AGGLUTIN(ATE) + -IN[2]]

ag·glu·tin·o·gen (ag′lo͞o tin′ə jən), *n. Immunol.* an antigen, present in a bacterial body, that, when injected into an animal, causes the production of agglutinins. [AGGLUTIN(ATE) + -O- + -GEN] —**ag·glu·tin·o·gen·ic** (ag′lo͞o tin′ə jen′ik, ə glo͞ot′ᵊnə), *adj.*

ag·grade (ə grād′), *v.t.*, **-grad·ed, -grad·ing.** *Phys. Geog.* to raise the grade or level of (a river valley, a stream bed, etc.) by depositing detritus, sediment, or the like (opposed to *degrade*). —**ag·gra·da·tion** (ag′rə dā′shən), *n.* - **ag′gra·da′tion·al,** *adj.*

ag·gran·dise (ə gran′dīz, ag′rən dīz′), *v.t.*, **-dised, -dising.** *Chiefly Brit.* aggrandize. - **ag·gran·dise·ment** (ə gran′diz mənt), *n.* —**ag·gran′dis·er,** *n.*

ag·gran·dize (ə gran′dīz, ag′rən dīz′), *v.t.*, **-dized, -dizing.** **1.** to widen in scope; increase in size or intensity; enlarge; extend. **2.** to make great or greater in power, wealth, rank, or honor; exalt. **3.** to make (something) appear greater; magnify. [< MF *aggrandiss-* (long s. of *aggrandir* to magnify) = *ag-* AG- + *grand* (see GRAND) + *-iss* irregularly equated with -IZE] —**ag·gran·dize·ment** (ə gran′diz mənt), *n.* —**ag·gran′diz·er,** *n.*

ag·gra·vate (ag′rə vāt′), *v.t.*, **-vat·ed, -vat·ing.** **1.** to make worse or more severe. **2.** to annoy; irritate, exasperate: *His questions aggravate her* **3.** to cause to become irritated or inflamed. [< L *aggravāt(us)* (ptp. of *aggravāre*) = *ag-* AG- + *grav* (see GRAVE[2]) + *-ātus* -ATE[1]] —**ag′gra·vat′ing·ly,** *adv* - **ag′gra·va′tive,** *adj* - **ag′gra·va′tor,** *n.*

—**Syn. 1.** heighten, increase. AGGRAVATE, INTENSIFY mean to increase in degree. To AGGRAVATE is to make graver or more serious: *to aggravate a danger, a wound.* To INTENSIFY is perceptibly to increase intensity, force, energy, vividness, etc.: *to intensify heat, color, rage.* —**Ant. 1.** alleviate

—**Usage.** AGGRAVATE, in the sense of "to annoy or irritate," is avoided in formal contexts by many precise writers and speakers, but its use is now widespread

ag·gra·va·tion (ag′rə vā′shən), *n.* **1.** an increase in intensity, seriousness, or severity. **2.** state of being aggravated. **3.** something that increases the intensity, degree, or severity of something. **4.** irritation; annoyance: *Johnny causes me so much aggravation!* **5.** a source of irritation or annoyance: *Johnny's an aggravation to her!* [< ML *aggravātiōn* (s. of *aggravātiō*)]

—**Usage.** AGGRAVATION, in the sense of defs. 4 and 5 follows the same usage pattern as AGGRAVATE

ag·gre·gate (*adj., n.* ag′rə git, -gāt′; *v.* ag′rə gāt′), *adj., n., v.*, **-gat·ed, -gat·ing.** —*adj.* **1.** formed by the conjunction or collection of particulars into a mass or sum; total; combined. **2.** *Bot.* **a.** (of a flower) formed of florets collected in a dense cluster but not cohering, as in composite plants. **b.** (of a fruit) composed of a cluster of carpels belonging to the same flower, as the raspberry. —*n.* **3.** a sum, mass, or assemblage of particulars; a total or gross amount: *the aggregate of all past experience.* **4.** *Geol.* a mixture of different mineral substances separable by mechanical means, as granite. **5.** any of various hard, inert materials, as sand, gravel, or pebbles, added to a cementing agent to make concrete, plaster, etc. —*v.t.* **6.** to bring together; collect into one sum, mass, or body. **7.** to amount to (the number of). —*v.i.* **8.** to combine into a collection or mass. [< L *aggregāt(us)* (ptp. of *aggregare*) = *ag-* AG- + *greg-* (s. of *grex* flock) + *-ātus* -ATE[1]] —**ag·gre·ga·ble** (ag′rə gə bəl), *adj.* —**ag′gre·gate·ly,** *adv.* **ag′gre·gate·ness,** *n.* —**ag·gre·ga·tive** (ag′rə gā′tiv), *adj.* —**ag·gre·ga·to·ry** (ag′rə gə tôr′ē, -tōr′ē), *adj.* —**Syn. 1.** added, complete, whole. **6.** amass, accumulate, assemble, gather.

ag·gre·ga·tion (ag′rə gā′shən), *n* **1.** a group or mass of distinct or varied things, persons, etc. **2.** collection into an unorganized whole. **3.** the state of being so collected. **4.** *Biol., Ecol.* a group of organisms of the same or different species living closely together but less integrated than a society. [< ML *aggregātiōn-* (s. of *aggregātiō*)]

ag·gress (ə gres′), *v.i.* **1.** to commit the first act of hostility or offense; attack first. **2.** to begin to quarrel. [< ML *aggress(āre)* (to) attack < L *agress(us)* (ptp. of *aggredī* to attack) = *ag* AG- + *gred-* (see GRADE) + *-tus* ptp. suffix]

ag·gres·sion (ə gresh′ən), *n.* **1.** the action of a state in violating by force the rights of another state, particularly its territorial rights; an unprovoked offensive, attack, invasion, or the like. **2.** any offensive action or procedure; an inroad or encroachment: *an aggression upon one's rights.* **3.** the practice of making assaults or attacks; offensive action in general. **4.** *Psychol.* outwardly or inwardly directed, overt or suppressed hostility. [< L *aggressiōn-* (s. of *aggressiō*)]

ag·gres·sive (ə gres′iv), *adj.* **1.** characterized by or tending toward aggression. **2.** vigorously energetic, esp. in the use of initiative and forcefulness; boldly assertive. [AGGRESS(ION) + -IVE] —**ag·gres′sive·ly,** *adv.* **ag·gres′sive·ness,** *n.* —**Syn. 1.** pugnacious, militant. **2.** pushing, enterprising, assertive. —**Ant. 2.** retiring.

ag·gres·sor (ə gres′ər), *n.* a person, nation, or group that attacks first or initiates hostilities; an assailant or invader. [< LL, L *aggress(us)* (see AGGRESS) + *-or* -OR[2]]

ag·grieve (ə grēv′), *v.t.*, **-grieved, -griev·ing.** **1.** to oppress or wrong grievously; injure by injustice (usually used passively). **2.** to afflict with pain, anxiety, etc.; trouble sorely. [ME *agreve(n)* < MF *agrever* < L *aggravāre* to make heavy, worsen = *ag-* AG- + *grav-* (see GRAVE[2]) + *-āre* inf. suffix]

ag·grieved (ə grēvd′), *adj.* **1.** wronged, offended, or injured **2.** *Law.* deprived of legal rights or claims. **3.** worried; disturbed **ag·griev·ed·ly** (ə grē′vid lē), *adv.* —**ag·griev′ed·ness,** *n.* —**Syn. 1.** abused, harmed, wounded.

Agh., afghani.

a·gha (ä′gə), *n.* aga.

a·ghast (ə gast′, ə gäst′), *adj.* struck with overwhelming shock, amazement, fright, or horror. [ME *agast* frightened, ptp. of *agasten* = *a-* A-3 + *gasten* < OE *gæstan* to frighten]

ag·ile (aj′əl or, *esp. Brit.*, aj′īl), *adj.* **1.** quick and well-coordinated: *an agile leap.* **2.** active; lively: *an agile person.* **3.** mentally acute or aware. [earlier *agil* < L *agil(is)* = *ag-* (s. of *agere* to do) + *-ilis* -ILE] **ag′ile·ly,** *adv.* - **ag′ile·ness,** *n* —**Syn. 1.** nimble, sprightly. **2.** brisk, spry. —**Ant. 1.** awkward. **2.** sluggish.

a·gil·i·ty (ə jil′i tē), *n.* **1.** the power of moving quickly and easily; nimbleness. **2.** intellectual acuity [late ME *agilite* < MF < L *agilitāt-* (s. of *agilitās*)]

Ag·in·court (aj′in kôrt′, -kōrt′; *Fr.* a zhaN kōōR′), *n.* a village in N France, near Calais: victory of the English over the French 1415. 207 (1962).

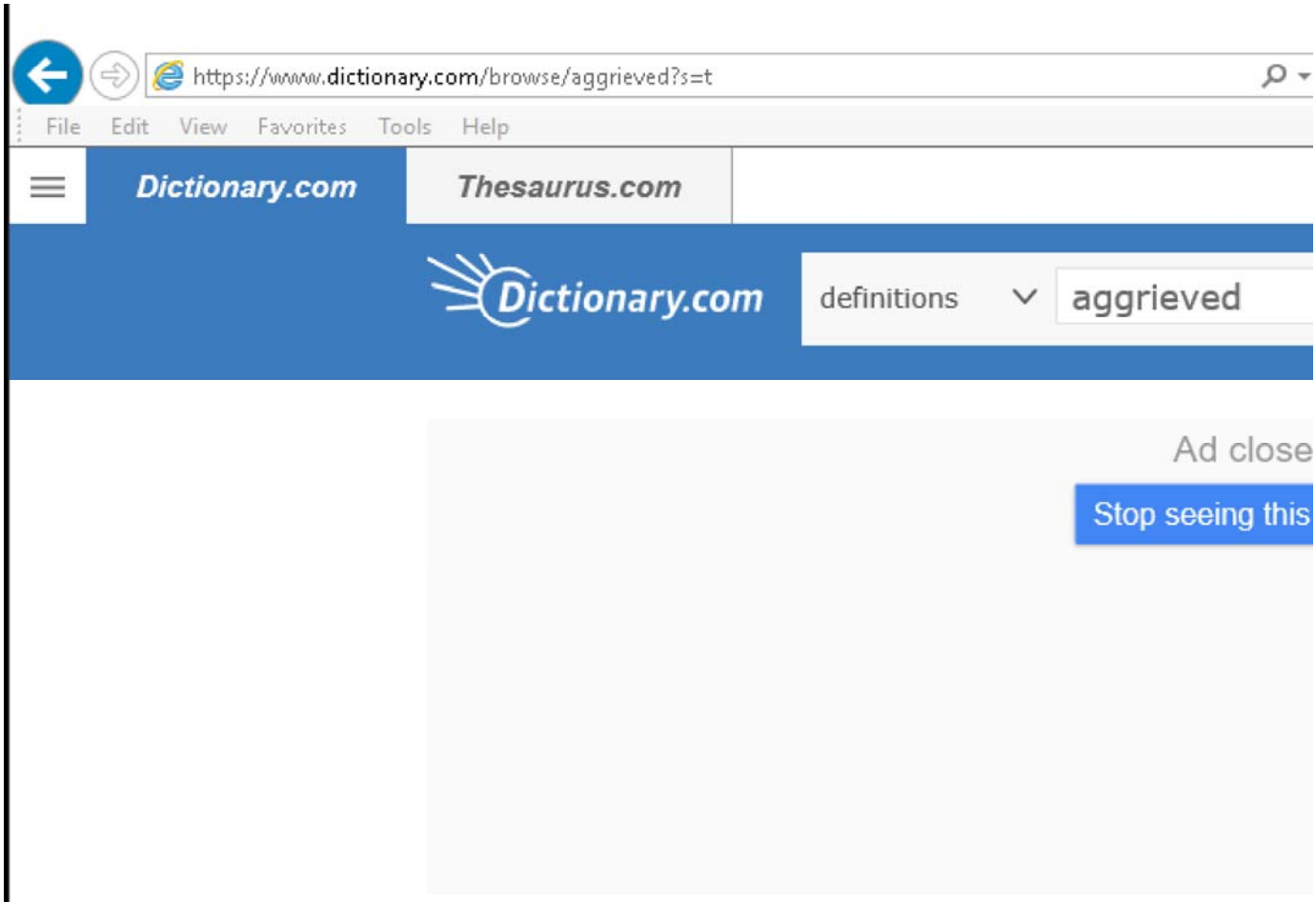
ag·i·o (aj′ē ō′), *n., pl.* **-os.** **1.** a premium on money in exchange. **2.** an allowance for the difference in value of two currencies. [< It *a(g)gio* exchange, premium < ?]

ag·i·o·tage (aj′ē ə tij), *n.* **1.** the business of dealing in foreign exchange. **2.** speculative dealing in securities. [< F = *agiot(er)* to speculate (*agiot* exchange < It *aggio* AGIO) + *-age* -AGE]

agit., (in prescriptions) shake; stir [< L *agitā*]

ag·i·tate (aj′i tāt′), *v.*, **-tat·ed, -tat·ing.** —*v.t.* **1.** to move or force into violent, irregular action. **2.** to shake or move briskly: *The machine agitated the mixture.* **3.** to move to and fro with a regular motion. **4.** to disturb or excite emotionally; arouse; perturb. **5.** to call attention to by speech or writing; discuss; debate. —*v.i.* **6.** to arouse or attempt to arouse public interest, as in a proposal (usually fol. by *for*): *to agitate for the repeal of a tax.* [< L *agitāt(us)* (ptp. of *agitāre* to set in motion) = *ag-* (s. of *agere* to drive) + *-it-* freq suffix + *-atus* -ATE[1]] —**ag·i·ta·ble** (aj′i tə bəl) *adj.* **ag′i·tat′ed·ly,** *adv* - **ag′i·ta′tive,** *adj.* —**Syn. 1.** disturb. **3.** wave. **5.** dispute —**Ant. 1.** calm.

ag·i·ta·tion (aj′i tā′shən), *n.* **1.** act or process of agitating. **2.** the state of being agitated. **3.** persistent or emotional urging of a political or social cause or theory before the public. [< L *agitātiōn-* (s. of *agitātiō*)] —**ag′i·ta′tion·al,** *adj.* —**Syn. 2.** unrest, disquiet. AGITATION, DISTURBANCE, EXCITEMENT, TURMOIL imply inner unrest, uneasiness or apprehension. AGITATION implies a shaken state of emotions, usually perceptible in the face or movements: *With evident agitation she opened the telegram.* DISTURBANCE implies an inner disquiet caused by worry, indecision, apprehension, and the like: *Long-continued mental disturbance is a cause of illness.* EXCITEMENT implies a highly emotional state caused by either agreeable or distressing circumstances: *excitement*



aggrieved

[*uh*-**greevd**]

Synonyms Examples Word Origin

See more synonyms for *aggrieved* on Thesaurus.com

adjective

1. wronged, offended, or injured:
   He felt himself aggrieved.
2. *Law*. deprived of legal rights or claims.
3. troubled; worried; disturbed; unhappy.

STATE OF ILLINOIS
95th GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES
TRANSCRIPTION DEBATE

276th Legislative Day 5/30/2008

Speaker Lyons: "Good morning, Illinois. The Illinois House of Representatives will come to order. Members are asked to please be at their desks. We shall be led in prayer today by Lee Crawford, the pastor of the Cathedral of Praise Christian Center in Springfield. Members and our guests are asked to refrain from starting their laptops and to turn off all cell phones and pagers and rise for the invocation and for the Pledge of Allegiance. Lee Crawford."

Pastor Crawford: "Let us pray. Most gracious and most sovereign God, who art the giver and sustainer of our lives. We pray this day that You would bestow Your most choice blessings upon this House of Representatives. Father, I pray that You would grant them wisdom, that You would grant them strength to do what You have called them to do. I pray that this day during these most challenging and even intense times that they will not lean toward their own understanding, but Father, rather they will lean and depend upon You. Father, I pray this day for spirit of compromise. I pray for spirit of unity. I pray for spirit of commitment, commitment to do what is good and what is fair and what is just in Your sight and in what is the best interest of this great State of Illinois. We ask this in Your Son's name. Amen."

Speaker Lyons: "We'll be led in the Pledge of Allegiance by Representative Tom Holbrook."

Holbrook - et al: "I pledge allegiance to the flag of the United States of America and to the republic for which it

those… All those in favor of the Bill should vote 'yes'; all those opposed vote 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. On this Bill, there's 113 Members voting 'yes', 0 voting 'no'. This Bill, having received the Constitutional Majority, is hereby declared passed. Representative Kathy Ryg, you have Senate Bill 2400. What's the status of that Bill, Mr. Clerk?"

Clerk Bolin: "Senate Bill 2400, the Bill's been read a second time, previously. Amendment #1 was adopted in committee. Floor Amendment #2, offered by Representative Ryg, has been approved for consideration."

Speaker Lyons: "Representative Ryg on the Floor Amendment."

Ryg: "Thank you, Mr. Speaker. The Floor Amendment guts and replaces to become the Bill. It provides for a technical correction and removes the Home Rule preemption because the Bill no longer applies to public agencies."

Speaker Lyons: "There any discussion on the Amendment? Seeing none, all those in favor signify by saying 'yes'; those opposed say 'no'. In the opinion of the Chair, the 'ayes' have it. And the Amendment is adopted. Anything further, Mr. Clerk?"

Clerk Bolin: "No further Amendments. No Motions filed."

Speaker Lyons: "Third Reading. And read the Bill, Mr. Clerk."

Clerk Bolin: "Senate Bill 2400, a Bill for an Act concerning health. Third Reading of this Senate Bill."

Speaker Lyons: "The Chair recognizes the Lady from Lake, Representative Kathy Ryg."

Ryg: "Thank you, Mr. Speaker, Ladies and Gentlemen of the House. Senate Bill 2400 creates the Biometric Information Privacy Act which will be applicable to private entities doing business in Illinois. It sets collection and retention standards while prohibiting the sale of biometric information. It provides exemptions as necessary for hospitals, organ donation efforts, licensed fingerprint vendors working with State Police doing background checks and private subcontractors working for a state or a local unit of government and banks that are covered under Federal Law. State and local government use of biometrics will be covered through the establishment of a study committee with key government stakeholders to review current policies and practices and make recommendations for improvement by January 2009. This Bill is especially important because one of the companies that has been piloted in Illinois, Pay By Touch, is the largest fingerprint scan system in Illinois and they have recently filed for bankruptcy and wholly stopped providing verification services in March of 2008. This pullout leaves thousands of customers from Albertson's, Cub Foods, Farm Fresh, Jewel Osco, Shell, and Sunflower Market wondering what will become of their biometric and financial data. The California Bankruptcy Court recently approved the sale of their Pay By Touch database. So, we are in very serious need of protections for the citizens of Illinois when it comes to biometric information. I know of no opposition to the legislation and I'll attempt to answer any questions."

STATE OF ILLINOIS
95th GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES
TRANSCRIPTION DEBATE

276th Legislative Day 5/30/2008

Speaker Lyons: "Is there any discussion? Seeing none, the question is, 'Should Senate Bill 2400 pass?' All those in favor signify by voting 'yes'; those opposed vote 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. On this Bill, there are 113 Members voting 'yes', 0 voting 'no'. This Bill, having received the Constitutional Majority, is hereby declared passed. Representative Bill Black, you have Senate Bill 2413. What's the status of that Bill, Mr. Clerk?"

Clerk Bolin: "Senate Bill 2413, the Bill has been read a second time, previously. Amendment #1 was adopted in committee. No Floor Amendments. No Motions are filed."

Speaker Lyons: "Third Reading. Read the Bill, Mr. Clerk."

Clerk Bolin: "Senate Bill 2413, a Bill for an Act concerning education. Third Reading of this Senate Bill."

Speaker Lyons: "The Gentleman from Vermilion, Representative Bill Black."

Black: "Thank you very… thank you very much, Mr. Speaker and Ladies and Gentlemen of the House. There's no registration fee in this Bill, whatsoever. It's identical to House Bill 5074 that passed the House 109 to 0. It's a request from the Illinois Community College Board. When we changed their term of office, they had to have staggered terms and then they were sworn in at a different time than any other elected official. They've now caught up with their staggered terms and all they're asking for is that they go back to being sworn in within fourteen (14) days after the