

Conclusions of Law to use in your affidavits

"Silence can only be equated with fraud when there is a legal or moral duty to speak, or when an inquiry left unanswered would be intentionally misleading... We cannot condone this shocking conduct... If that is the case we hope our message is clear. This sort of deception will not be tolerated and if this is routine it should be corrected immediately"

U.S. v. Tweel, 550 F2d 997, 299-300

"Fraud: An intentional perversion of truth for the purpose of inducing another in reliance upon it to part with some valuable thing belonging to him or to surrender a legal right."

Black's 5th, 594 (emphasis added.)

"Where a party desires to rescind upon the grounds of mistake or fraud he must upon the discovery of the facts, at once announce his purpose, and adhere to it."

Grymes v Saunders, 93 US 55, 62.

"...If they proposed to rescind, their duty was to assert that right promptly, unconditionally, and invasively,"

Richardson v. Lowe, 149 Fed Rep 625, 627-28.

"Fraud vitiates the most solemn contracts, documents, and even judgments."

U.S. vs. Throckmorton, 98 U.S. 61.
documents"; ("Constitutions")

"Fraud maybe committed by failure to speak, but a duty to speak must be imposed,"

Dunahay v. Struzik, 393 P.2d 930, 96 Ariz. 246 (1964).

"Fraud" may be committed by a failure to speak when the duty of speaking is imposed as much as by speaking falsely."

Batty v Arizona State Dental Board,
112 P.2d 870, 57 Ariz. 239. (1941)

"When one conveys a false impression by disclosure of some facts and the concealment of others, such concealment is in effect a false representation that what is disclosed is the whole truth."

State v Coddington,
662 P.2d 155,135 Ariz. 480. (Ariz. App. 1983)

"Suppression of a material fact which a party is bound in good faith to disclose is equivalent to a false representation."

Leigh v. Loyd, 244 P.2d 356, 74 Ariz. 84- (1952)

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State v. Coddington,
662 P.2d 155,135 Ariz. 480 (Ariz. App. 1983)

"Fraud and deceit may arise from silence where there is a duty to speak the truth, as well as from speaking an untruth."
Morrison v Acton,
198 P.2d 590, 68 Ariz. 27 (Ariz. 1948)

"Damages will lie in proper case of negligent misrepresentation of failure to disclose."
Van Buren v. Pima Community College Dist Bd.,
546 P.2d 821, 113 Ariz. 85 (Ariz.1976)

"Where one under duty to disclose facts to another fails to do so, and other is injured thereby, an action in tort lies against party whose failure to perform his duty caused injury."
Regan v First Nat. Bank,
101 P.2d 214, 55 Ariz. 320 (Ariz. 1940)

"Where relation of trust or confidence exists between two parties so that one places peculiar reliance in trustworthiness of another, latter is under duty to make full and truthful disclosure of all material facts and is liable for misrepresentation or concealment."
Stewart v. Phoenix Nat. Bank,
64 P.2d 101, 49 Ariz. 34- (Ariz. 1937)

"Concealing a material fact when there is duty to disclose may be actionable fraud."
Universal Inv. Co. v. Sahara Motor Inn, Inc.,
619 P-2d 485,127 Ariz. 213- (Ariz. App. 1980)

"An "ex post facto law" is defined as a law which provides for the infliction of punishment upon a person for an act done which, when it was committed, was innocent; a law which aggravates a crime or makes it greater than when it was committed; a law that changes the punishment or inflicts a greater punishment than the law annexed to the crime when it was committed; a law that hanges the rules of evidence and receives less or different testimony than was required at the time of the commission of the offense in order to convict the offender; a law which, assuming to regulate civil rights and remedies only, in effect imposes a penalty or the deprivation of a right which, when done, was lawful; a law which deprives persons accused of crime of some lawful protection to which they have become entitled, such as the protection of a former conviction or acquittal, or of the proclamation of amnesty; every law which, in relation to the offense or its consequences, alters the situation of a person to his disadvantage."
Wilensky v. Fields, Fla, 267 So.2d 1, 5.
[Source: Black's Law Dictionary, 6th edition, p 580.]

"Qualified immunity defense fails if public officer violates clearly established right because a reasonably competent official should know the law governing his conduct"
Jones vs Counce 7-F3d-1359-8th Cir 1993;
Benitez v Wolff 985-F3d 662 2nd Cir 1993

"Officers of the court have no immunity, when violating a Constitutional right, from liability for they are deemed to know the law" Owens v Independence 100 S.C.T. 1398

"The Constitution of these United States is the supreme law of the land, Any law that is repugnant to the constitution is null and void of law." Marbury v Madison, 5 US 137

"No state shall convert a liberty into a privilege, license it, and attach a fee to it." Murdock v Peon, 319 US 105

"If the state converts a liberty into a privileged the citizen can engage in the right with impunity" Shuttlesworth v Birmingham, 373 USs 262

The court is to protect against any encroachment of constitutionally secured liberty. Boyd v US, H6US616

"Where rights secured by the constitution are involved, there can be no rule making or legislation which would abrogate them." Miranda v Arizona, 384 US 436

"An unconstitutional act is not law; it confers no rights; it imposes no duties; affords no protection; it creates no office; it is in legal contemplation, as inoperative as though it had never passed." Norton v Shelby County, 118 US 425

"And be it further enacted. That no summons, writ, declaration, return, process, judgement, or other proceedings in civil cases in any of the courts or the United States, shall be abated, arrested, quashed or reversed, for any defect or want of form, but the said courts respectively shall proceed and give judgement according as the right of the cause and matter in law shall appear unto them, without regarding any imperfections, defects or want of form in such writ, declaration, or other pleading, returns process, judgement, or course of proceeding whatsoever, except those only in cases of demurrer, which the party demurring shall specially sit down and express together with his demurrer as the cause thereof. And the said courts respectively shall and may, by virtue of this act, from time to time, amend all and every such imperfections, defects and wants of form, other than those only which the party demurring shall express as aforesaid, and may at any, time, permit either of the parties to amend any defect in the process of pleadings upon such conditions as the said courts respectively shall in their discretion, and by their rules prescribe (a)"

Judiciary Act of September 24, 1789, Section 342,
FIRST CONGRESS, Sess. 1, ch. 20,1789

Due Process provides that the "rights of pro se (Sui Juris) litigants are to be construed liberally and held to less stringent standard than formal pleadings drafted by lawyers; if j court can reasonably read pleadings to state valid claim on which litigant could prevail, it should do so despite failure to cite proper legal authority, confusion of legal theories, poor syntax and sentence construction, or litigants unfamiliarity with pleading requirements"

(Spencer v Doe; 1998; Green v Bransou 1997;
Boag v McDougall; 1998; Haines v Kerner, 1972)

"Right to proceed pro se (Sui Juris) is fundamental statutory right that is afforded highest degree of protection"

(DEVINE V INDIAN RIVER COUNTY SCHOOL BD., 11TH CIR. 1997