

Legal Terminology

A B C D E F G H I J K L M N O P Q R S T U V W X Y Z

A

ABATES – CAUSE: Used in Criminal Division cases when the defendant has died, so the “cause” (the case) “abates” (is terminated).

ACQUITTED: Defendant is found not guilty

ADJUDICATION HEARING: In child abuse and neglect proceedings, the trial stage at which the court hears the state’s allegations and evidence and decides whether the state has the right to intervene on behalf of the child. In a juvenile delinquency case, a hearing in which the court hears evidence of the charges and makes a finding of whether the charges are true or not true.

ADMINISTRATOR: Person appointed to oversee the handling of an estate when there is no will.

ADMONISHED: A reprimand or cautionary statement addressed to an attorney or party in the case by a judge.

AFFIANT: One who makes an affidavit.

AFFIDAVIT: A written statement made under oath.

AGE OF MAJORITY: The age when a person acquires all the rights and responsibilities of being an adult. In most states, the age is 18.

ALIAS: Issued after the first instrument has not been effective or resulted in action.

ALIAS SUMMONS: A second summons issued after the original summons has failed for some reason.

ALIMONY: Also called maintenance or spousal support. In a divorce or separation, the money paid by one spouse to the other in order to fulfill the financial obligation that comes with marriage.

ALTERNATIVE DISPUTE RESOLUTION: Methods for resolving problems without going to court.

AMENDED COMPLAINT: A complaint that modifies and replaces the original complaint by adding relevant matters that occurred before or at the time the action began.

ANNULMENT: A legal decree that states that a marriage was never valid. Has the legal effect of wiping out a marriage as though it never existed.

ANSWER: In a civil case, the defendant's written response to the plaintiff's complaint. It must be filed within a specified period of time, and it either admits to or (more typically) denies the factual or legal basis for liability.

APPEAL: A request to a supervisory court, usually composed of a panel of judges, to overturn the legal ruling of a lower court.

APPELLANT: Party in a law suit who takes an appeal.

APPELLEE: Party in a law suit against whom an appeal is taken.

ARBITRATION: A method of alternative dispute resolution in which the disputing parties agree to abide by the decision of an arbitrator.

ARRAIGNMENT: The initial appearance before a judge in a criminal case. At an arraignment, the charges against the defendant are read, a lawyer is appointed if the defendant cannot afford one, and the defendant's plea is entered.

B

BANKRUPTCY: Insolvency; a process governed by federal law to help when people cannot or will not pay their debts.

BENCH TRIAL: A trial before a judge without a jury.

BILL OF PARTICULARS: A formal, detailed statement of the claim or charges brought by a plaintiff or prosecutor, usually filed in response to the defendant's request for a more specific complaint.

BODY ATTACHMENT: The arrest of a person who either is in contempt of court or is to be held as security for the payment of a judgment (warrant for civil cases).

BRIEF: A written document that outlines a party's legal arguments in a case.

C

CHILD ABUSE: Defined by state statutes. Usually occurs when a parent purposefully harms a child.

CHILD NEGLECT: Defined by state statutes. Usually arises from a parent's passive indifference to a child's well-being, such as failing to feed a child or leaving a child alone for an extended time.

CITATION: A court-issued writ that commands a person to appear at a certain time and place to do something demanded in the writ, or to show cause for not doing so.

CIVIL CONTEMPT: The failure to obey a court order that was issued for another party's benefit (i.e. in a civil case). The act complained of must be within the defendant's power to perform and the contempt order must state how the contempt may be purged. Imprisonment for civil contempt is indefinite and for a term that lasts until the defendant complies with the decree.

CODICIL: A supplement to a will.

COMPLAINT: The initial pleading that starts a civil action and states the basis for the court's jurisdiction, the basis for the plaintiff's claim, and the demand for relief. In criminal cases it is the formal charge accusing a person of an offense.

CONCURRENT SENTENCES: Criminal sentences that can be served at the same time rather than one after the other.

CONSECUTIVE SENTENCES: Criminal sentences that must be served one after the other rather than at the same time.

CONTEMPT OF COURT: An action that interferes with a judge's ability to administer justice or that insults the dignity of the court. Disrespectful comments to the judge or a failure to heed a judge's orders could be considered contempt of court. A person found in contempt of court can face financial sanctions and, in some cases, jail time.

CONVICTION: A final judgment of guilt by the court. A conviction includes terms such as: Judgment Conviction, Probation (except "710," "1410," "Section 10," "Section 410"), Conditional Discharge, Ex Parte Judgment, Revoked Supervision.

COUNTERCLAIM: A claim for relief asserted against an opposing party after an original claim has been made, a defendant's claim in opposition to the plaintiff's claim.

CREDITOR: A person (or institution) to whom money is owed

CRIMINAL CONTEMPT: A criminal contempt proceeding is punitive in nature. The purpose of criminal contempt proceedings is to punish repeated or aggravated failure to comply with a court order. Commitment must be for a definite period.

D

DEBTOR: Person who owes money.

DECISION: The judgment rendered by a court after a consideration of the facts and legal issues before it.

DEFAULT JUDGMENT: A ruling entered against a defendant who fails to answer a summons in a lawsuit.

DEFENDANT: In criminal cases, the person accused of the crime. In civil matters, the person or organization that is being sued

DEPOSITION: Part of the pre-trial discovery (fact-finding) process in which a witness testifies under oath. A deposition is held out of court with no judge present, but the answers often can be used as evidence in the trial.

DETENTION HEARING: A hearing held by a juvenile court to determine whether a juvenile accused of delinquent conduct should be detained, continued in confinement, or released pending an adjudication hearing.

DETINUE: An action to recover personal property wrongfully taken by another.

DIRECT CONTEMPT: A contempt committed in the immediate vicinity of the court, for example the assault of a testifying witness.

DIRECTED VERDICT: A judge's order to a jury to return a specified verdict, usually because one of the parties failed to prove its case.

DISCOVERY: Part of the pre-trial litigation process during which each party requests relevant information and documents from the other side in an attempt to "discover" pertinent facts.

DISMISSED FOR WANT OF PROSECUTION: Removed from the court's docket (case closed) because the plaintiff has failed to pursue the case (plaintiff failed to appear or chose to drop the case)

DISMISSED WITHOUT PREJUDICE: A dismissal (case closed) that does not bar the plaintiff from refiling the lawsuit.

DISMISSED WITH PREJUDICE: A dismissal (case closed) barring the plaintiff from filing any later lawsuit on the same claim.

DISPOSITION: The final order of the court on your criminal case.

DISSOLUTION: Divorce

E

EMANCIPATION: When a minor has achieved independence from his or her parents, often by getting married before reaching age 18 or by becoming fully self-supporting.

ESTATE: All the property a person owns.

EVICTION: The act of taking and keeping possession of property without legal authority (landlord/tenant disputes).

EXECUTOR: Person named in a will to oversee and manage an estate.

EX PARTE JUDGMENT: Ex Parte generally means that “from one party only.” An Ex Parte Judgment is entered when the defendant fails to appear in a traffic matter, and the prosecution asks for judgment of conviction to be entered. Judgment of conviction is entered and the defendant is not present to offer any argument.

EXPUNGE: To physically destroy records and to obliterate (remove) the petitioner's name from any official index or public record.

F

FELONY: Serious crime punishable by incarceration for a year or more. Includes rape, murder, robbery, burglary, and arson.

FORECLOSURE: When a borrower cannot repay a loan and the lender seeks to sell the property.

FOREIGN JUDGMENT: A judgment rendered by a court of a state or country different from that where the judgment or its effect is at issue.

G

GARNISHMENT: Also known as wage execution. A court-ordered method of debt collection in which a portion of a person's salary is paid to a creditor. Often used to collect child support payments.

GRAND JURY: A body of people who are chosen to sit for at least a month, who in ex parte proceedings decide whether to issue criminal indictments.

GUARDIAN: Person assigned by the court to take care of minor children or incompetent adults. Sometimes called a conservator.

GUARDIAN AD LITEM: A lawyer appointed by the court to appear on behalf of a minor or incompetent party.

H

HABEAS CORPUS: Latin phrase meaning "you have the body." Prisoners often seek release by filing a petition for a writ of habeas corpus. A writ of habeas corpus is a judicial mandate to a prison official ordering that an inmate be brought to the court so it can be determined whether or not that person is imprisoned lawfully.

HEARING: A judicial session, usually open to the public, held for the purpose of deciding issues of fact or of law, sometimes with witnesses testifying.

HEIRS: Persons who are entitled by law to inherit the property of the deceased if there is no will specifying how it's divided.

HUNG JURY: A jury that is unable to reach a verdict.

I

ILLINOIS COMPILED STATUTES: The written law of Illinois. It is abbreviated as "ILCS."

IN CAMERA: Latin for "in chambers." Refers to a hearing or inspection of documents that takes place in private, often in a judge's chambers.

INDICTMENT: The formal written accusation of a crime made by a grand jury and presented to a court for prosecution against the accused person.

INDIGENT: Lacking in funds; poor.

INDIRECT CONTEMPT: Contempt that is committed outside of court, as when a party disobeys a court order.

INFORMATION: A formal accusation of a crime, issued by a prosecutor. An alternative to an indictment.

IN RE: In the matter of.

INTERLOCUTORY APPEAL: The appeal of an interim or temporary order, not constituting a final resolution of the whole controversy.

INTERROGATORIES: Part of the pre-trial discovery (fact-finding) process in which a witness provides written answers to written questions under oath. The answers often can be used as evidence in the trial.

INTERSTATE: Between two or more states or residents of different states.

INTESTATE: To die without a will.

J

JUDGMENT: A court's official decision on the matters before it. Sometimes a money judgment where a judgment is entered against a particular party or parties for monetary damages.

JUDGMENT CREDITOR: A person having a legal right to enforce execution of a money judgment.

JUDGMENT DEBTOR: A person against whom a money judgment has been entered but not yet satisfied.

JURISDICTION: A court's authority to rule on the questions of law at issue in a dispute, typically determined by geographic location and type of case

JURY TRIAL: A trial in which the factual issues are determined by a jury, not by the judge.

M

MAINTENANCE: In a divorce or separation, the money paid by one spouse to the other in order to fulfill the financial obligation that comes with marriage.

MEDIATION: A method of alternative dispute resolution in which a neutral third party helps resolve a dispute. The mediator does not have the power to impose a decision on the parties. If a satisfactory resolution cannot be reached, the parties can pursue a lawsuit.

MINOR: A person who does not have the legal rights of an adult. A minor is usually defined as someone who has not yet reached the age of majority. In most states, a person reaches majority and acquires all of the rights and responsibilities of an adult when he or she turns 18.

MISDEMEANOR: Crime that is punishable by less than one year in jail, such as minor theft and simple assault that does not result in substantial bodily injury.

MOTION: A written or oral request asking a judge to make a specified ruling or order.

MOTION IN LIMINE: Motion presented to the judge before or during trial because of an issue about the admissibility of evidence believed to be prejudicial.

MOTION FOR DIRECTED VERDICT: A party's request that the court enter a judgment in its favor before submitting the case to the jury because there is no legally sufficient foundation on which a reasonable jury could find for the other party.

MOTION FOR NEW TRIAL: Request in which a losing party asserts that a trial was unfair due to legal errors that prejudiced its case.

MOTION FOR SUMMARY JUDGMENT: A request made by the defendant in a civil case. Asserts that the plaintiff has raised no genuine issue to be tried and asks the judge to rule in favor of the defense. Typically made before the trial.

MOTION TO DISMISS: In a civil case, a request to a judge by the defendant, asserting that even if all the allegations are true, the plaintiff is not entitled to any legal relief and thus the case should be dismissed.

MOTION TO SUPPRESS EVIDENCE: A request to a judge to keep out evidence at a trial or hearing, often made when a party believes the evidence was unlawfully obtained.

N

NOLLE PROSEQUI: Latin term would be “nolle prosequi” which means “to abandon” or “not to wish to prosecute.” Generally means that the prosecution has elected not to prosecute the charges so the case is dismissed.

NOTARY PUBLIC: A person authorized to witness the signing of documents.

NOTICE OF APPEAL: The document a person must file with the trial court in order to pursue an appeal.

NOTICE OF MOTION: Written certification to the opposing parties in a case that a party has filed a motion or that a motion will be heard by the court at a particular date and time.

NUNC PRO TUNC: Latin term “now for then,” which generally means that the court is entering an order now that should have been entered on a previous specified date. The Circuit Clerk records the Order entered Nunc Pro Tunc as if it was entered on that previous specified date.

O

OPINION: The official written statement of a case, the court's decision and its reasons for reaching the decision it did.

ORDINANCE: The local legislation of a city, town, village or county written by the local legislative body.

P

PERMANENCY HEARING: A judicial proceeding to determine the future, permanent status of a child in foster care.

PERSONAL RECOGNIZANCE: Sometimes called own recognizance. A person who promises to appear in court to answer criminal charges can sometimes be released

from jail without having to pay bail. This person is said to be released on his or her personal recognizance.

PETITION: A written application to the court asking for specific action to be taken.

PETITIONER: A party who presents a petition to a court, sometimes commonly referred to as Plaintiff.

PETIT JURY: The jurors empanelled to hear a civil or criminal trial. Distinguished from a grand jury.

PETTY OFFENSES: Minor crimes, such as traffic violations, which are generally punishable by a fine.

PLAINTIFF: The party who brings a civil suit in a court of law.

PRELIMINARY HEARING: Legal proceeding used in some states in which a prosecutor presents evidence to a judge in an attempt to show that there is probable cause that a person committed a crime. If the judge is convinced probable cause exists to charge the person, then the prosecution proceeds to the next phase. If not, the charges are dropped.

PRE-SENTENCING REPORT: A report prepared by a probation department for a judge to assist in sentencing. Typically contains information about prior convictions and arrests, work history and family details.

PRE-TRIAL DIVERSION: A program in which a defendant essentially is put on probation for a set period of time and his or her case does not go to trial during that time. If the defendant meets the conditions set by the court, then the charge will be dismissed.

PROBABLE CAUSE: A reasonable belief that a person has committed a crime.

PROBATE: The legal process in which a court oversees the distribution of property left in a will.

PROBATION: The release into the community of a defendant who has been found guilty of a crime, typically under certain conditions, such as paying a fine, doing community service or attending a drug treatment program. Violation of the conditions can result in incarceration.

PROCESS SERVER: A person authorized by law or by a court to formally deliver process to a defendant or respondent.

PRO SE: Someone who represents themselves in a court, proceeding without the assistance of a lawyer.

PROSECUTOR: The government lawyer who investigates and tries criminal cases. Typically known as a district attorney, state's attorney, or United States attorney.

PUBLIC DEFENDER: A lawyer who works for a state or local agency representing clients accused of a crime who cannot afford to pay.

PUTATIVE FATHER: Reputed or supposed father in a paternity or adoption case.

Q

QDRO – QUALIFIED DOMESTIC RELATIONS ORDER: A court order or judgment in a divorce case that recognizes or provides for one party's right to receive all or part of any benefits due a participant under a pension, profit-sharing or other retirement benefit plan.

QUASH: To terminate or make void, for example to “quash a warrant” means to void the arrest warrant and return it to the Court unserved.

R

RECUSE: When a judge removes themselves as the judge in a particular case because of prejudice or conflict of interest.

REMAND: When an appellate court sends a case back to a lower court for further proceedings.

REPLEVIN: Repossession. Action taken by a creditor to seize assets of a debtor.

RESPONDENT: The party against whom a motion or petition is filed, sometimes commonly referred to as Defendant.

RETURN DATE: The date listed on the summons which a defendant must appear in court.

REVOKE: An annulment, cancellation or reversal of an act or power, for example to revoke court supervision would be to cancel or reverse a defendant's sentence of court supervision and enter a judgment of conviction.

RIGHT OF EMINENT DOMAIN: The government's right to acquire private property for public use.

RULE TO SHOW CAUSE: An order directing a party to appear in court and explain why the party took (or failed to take) some action or why the court should or should not grant some relief.

S

SATISFACTION/RELEASE OF JUDGMENT: The document filed and entered on the record indicating that a judgment has been paid. Generally, a satisfaction of judgment is the final act and of a civil proceeding where a money judgment was entered.

SETTLEMENT: The resolution or compromise by the parties in a civil lawsuit.

SETTLEMENT AGREEMENT: In a civil lawsuit, the document that spells out the terms of an out-of-court compromise.

SHELTER CARE HEARING: A hearing shortly after the State's removal of a child for suspected abuse or neglect. The hearing is generally held within 24 to 72 hours after the removal. The purpose of the hearing is to determine whether the state has adequate cause to maintain the children in protective care.

SUBPOENA: A writ commanding a person to appear before a court, subject to a penalty for failing to comply.

SUBPOENA DUCES TECUM: A subpoena ordering the witness to appear and to bring specified documents, records, or things.

SUMMONS: A legal document that notifies a party that a lawsuit has been initiated and states when and where the party must appear to answer the charges.

SUPERVISION: A court order holding the case open for a specific period of time, usually between six months and two years. During that time, no judgment of guilt is entered. If all the conditions of supervision are followed, the case is dismissed and no conviction is ever entered against the defendant.

T

TESTATOR: The person who makes a will.

TITLE: Ownership of property.

TORT: A civil wrong that result in an injury to a person or property.

TRANSCRIPT: The official record of a legislative, administrative or court proceeding. It is mainly comprised of the word-for-word testimony of witnesses and arguments by advocates and presiding officers.

TRUE BILL: The grand jury's notation that a criminal charge should go before a petty jury for trial (indictment).

TRUST: Property given to a trustee to manage for the benefit of a third person. Generally the beneficiary gets interest and dividends on the trust assets for a set number of years.

TRUSTEE: Person or institution that oversees and manages a trust.

V

VACATE: To nullify or cancel, make void or invalidate a judgment.

VERDICT: The formal decision issued by a jury on the issues of fact that were presented at trial.

VOIR DIRE: A preliminary examination of prospective jurors by a judge or lawyer to decide whether the prospect is qualified and suitable to serve on a jury. Loosely refers to the jury selection phase of a trial.

W

WITHHOLD JUDGMENT: Used in Criminal cases to mean the defendant received "Court Supervision." Generally means that the Judgment of Conviction is withheld during the period of sentenced supervision and if the defendant completes the terms of supervision conviction will not be entered against the defendant.

WRIT: A court's written order, commanding the addressee to do or refrain from doing some specified act.

WRIT OF HABEUS CORPUS: A writ used to bring a person before a court. A writ directed to someone detaining another person and commanding that the prisoner be brought to the court.

WRIT OF REPLEVIN: A writ obtained from a court authorizing the retaking of personal property wrongfully taken or detained by the defendant.