

# Glossary of Legal Terminology

---

*The following glossary is intended as a brief introduction to the terms and phrases provided and should not be considered a definitive source for defining the terms. The descriptions are intended to be more practice oriented than technical. For a more thorough definition of terms, refer to a legal dictionary, such as Black's or Barron's.*

**aka**

also known as

**abet**

to encourage

**abrogation**

the end or modification of a law

**abstract**

a summary

**abut**

to border something (nothing between)

**accede**

to accept

**accessory**

a person who assists without participating

**ad damnum clause**

the element of the complaint that asks for damages; also called *prayer for relief* or the *wherefore clause*

**ad hoc**

Latin for "what is at hand" (of the moment)

**ad litem**

Latin for "the current legal matter"

**additur**

occurs when the judge adds to the amount a jury has awarded. Typically, the judge will give the party who must pay the award the choice of increasing the award or undergoing a new trial

**adjudicate**

to judge

**administrator**

one appointed by the court to handle an estate. If named in the will, he or she is referred to as an executor

**admissible**

whether a jury will be allowed to hear evidence to determine its value. Admissible does not mean "believable." The jury is free to believe or not believe the evidence

**admonition**

advice or reprimand by a judge to a jury, attorney, party, or witness

**advance sheet**

a pamphlet that comes out in advance of the hardbound volume; most commonly used by case law books and *Shepard's Citators*

**adverse**

opposed; against

**adversary hearing**

hearing a hearing where both parties are present to state their respective positions

**adverse judgment**

a judgment against the party represented

**advisement**

under review

**advocate**

to represent

**affiant**

a person making a representation, or statement, in writing under oath; one who signs an affidavit

**affidavit**

a written statement made under oath testifying to certain facts.

Affidavits are under oath; if one lies under oath, including in an affidavit, he or she is committing perjury

**affidavit of service, return of service, proof of service**

a written statement in which one swears that a party (or witness) has been served with legal documents. It must contain the details of the service and is filed with the court to prove that the papers have been provided to the party in question. When a summons and complaint have been served on the defendant and the defendant fails to appear when ordered, the court will require proof that the defendant was, in fact, served. That proof is the affidavit of service. This proof is critical because everyone has a constitutional right to be “noticed” about the charges, claims or allegations being made against him or her.

**affirm**

to uphold or establish generally; an appellate court may uphold, or affirm, the trial court’s decision if the appellate court agrees with the trial court’s reasoning

**affirmative defense**

a form of defense in which the defendant affirms or admits that some allegation did occur, but explains that the fault lies somewhere else; this defense does not require a response by the plaintiff

**aforethought**

considered in advance

**aggravated assault**

a serious form of assault, often assault with a deadly weapon

**aid and abet**

to assist or encourage someone (to commit a crime)

**alien**

not a citizen of the country

**alienation**

to transfer or make distant

**all fours**

two relevant cases, the client’s case and a case found through research in the law library, which are significantly similar; also referred to as on-point

**allege**

to charge or claim

**allocate**

to divide or assign

**alternate juror**

a juror who sits through the trial but does not deliberate unless another juror is removed

**alternate writ**

similar to a show cause order, a court's demand that a person appear and explain something, such as absence from a previous hearing

**ambulance chaser**

a lawyer who solicits work from those recently injured or in dire need of representation

**ambulatory**

in a condition to walk

**amend**

to change or alter

**American Law Reports (A.L.R.)**

an annotated reporter by *Lawyers Cooperative Publishing Company*

**American Jurisprudence, 2d**

national legal encyclopedia by *Lawyers Cooperative Publishing Company*

**amicable**

friendly; agreeable

**amicus curiae**

"friend of the court." An amicus curiae brief is a legal memo filed by a nonparty who has information or opinions that may be instructive to the court.

**amnesty**

the clearing of a record; similar to a pardon, but a pardon is forgiveness of an act, while amnesty is as though the act never happened.

**amortization**

the payment of a debt in equal, regular payments

**analogous**

very similar; comparable

**ancillary**

supplemental but connected

**annex**

attach or attached

**annotation**

a note or commentary, often with references to other authority; often refers to *American Law Reports*, an annotated reporter

**annuity**

a fixed sum of money paid to a person at fixed times

**answer**

the document that responds to the allegations in the complaint; must be filed within a specific period of time after service has been effectuated. The answer may also contain the defendant's affirmative defenses, counterclaims, and cross claims, if any.

**ante**

before

**antenuptial** or **prenuptial agreement**

a contract between two persons about to marry regarding property settlement in the event of divorce

**antitrust acts**

statutes passed to discourage monopolistic practices

**appeal**

to ask a higher court to determine the fairness of results of trial

**appearance**

the formal representation in court on behalf of another

**appellant** or **petitioner**

the party that usually loses at the trial level, or wins but is not satisfied with the result, and initiates the appeal

**appellee** or **respondent**

the party that wins at the trial level; the party against whom the appeal is brought

**appellate brief**

a document filed with an appellate court arguing the fairness of a trial. The appellant, or petitioner, will argue that the trial court erred. The appellee, or respondent, will argue that there were no errors that affected the fairness of the trial. Errors that do not affect fairness are often referred to as harmless errors

**appellate level courts**

There are two levels of courts: trial and appellate. Action is initiated at trial level courts, where facts and evidence are presented. There is one judge and often a jury. Appellate courts review the records of trial court decisions to determine whether the trial court erred. Appellate courts have multiple judges. There are two kinds of appellate-level courts: courts of appeals (state and federal) and supreme courts (state and federal)

**appraisal**

estimate of value or worth

**appreciate**

increase in value

**appropriation**

setting aside of funds by a legislature

**arbiter or arbitrator**

one who acts as a referee in arbitration

**arbitrary**

done in bad faith or without good cause

**arbitration**

settling a dispute out of court by presenting arguments to a person acting as arbitrator. The arbitrator's decision may or may not be binding, depending on the situation. For example, some states have mandatory arbitration, meaning that before going to court, parties must submit to arbitration. State-ordered mandatory arbitration cannot be binding, since a court cannot refuse a party's right to a trial in court. On the other hand, if a major league baseball player and a team owner disagree on a player's value, they may go to an arbiter, whose decision is binding and may not be appealed

**argumentative**

stating not just facts, but also conclusions, usually controversial

**arraign**

to bring a person before a judge to be informed of charges and enter a plea

**arrears**

money owed that is past due

**arrest**

seizure of a person by the government due to criminal charges

**as is**

sold without guarantee or representation as to condition

**ascendants**

parents, grandparents, great-grandparents, etc.

**asportation**

taking or carrying something unlawfully

**assault**

threatening by word or movement sufficient to make the person threatened feel in danger. The elements of assault are the following:

*an act*: conduct by the defendant that creates a reasonable apprehension or belief in the plaintiff of an imminent battery by the defendant;

*an intent*: an intention by the defendant to cause this apprehension in the plaintiff; and

*causation*: the plaintiff's apprehension(s) must have been caused by the direct or indirect actions of the defendant

**assess**

to set value

**assets**

money, property, and anything else of value

**associate**

non-partner attorney

**associate justice**

all justices on an appellate court, except the chief justice

**assumpsit**

Latin for "he promised"; claim of an obligation

**at bar**

presently before the court

**at issue**

a question to be answered by the court

**attachment**

formal seizure of person or property

**attainder**

loss of civil rights due to conviction of a felony or being sentenced to death; allowing the government to seize property

**attest**

to swear to

**attorney-client privilege**

a client can refuse to testify about communication between the client and his or her attorney. The client can also prevent his attorney from testifying.

**attorney work product**

doctrine by which material collected in anticipation of litigation by an attorney is not required to be produced during discovery

**attractive nuisance**

creating an inviting or tempting atmosphere around a source of potential danger

**authentication**

certifying that a thing is official and what it purports to be

**authority**

the power to take some action; also, that which is relied upon in making a legal argument

**aver**

allege or assert

**award**

to grant money

**bad faith**

to enter into an agreement with no intention of fulfilling the obligations of that agreement



**bait and switch**

unlawful advertising technique whereby one item is publicized, but when the customer appears, another item is offered

**bankruptcy**

under authority of the federal bankruptcy act, individuals and companies may be relieved of most of their debt. Chapter 7 is the total discharge of debt, chapter 11 is reorganization of a business's debt, and chapter 13 of an individual's debt

**battery**

the intentional physical intrusion upon the body of another

**bench**

judges are collectively referred to as "the bench"; a bench trial is a non-jury trial where the judge acts as fact-finder.

**beneficiary**

a person or organization who benefits, usually with money

**bequeath**

to grant or give

**best evidence rule**

doctrine whereby the original, or best available, evidence should be presented at court

**beyond a reasonable doubt**

the standard of the burden of proof in a criminal case; a jury must be fully assured within their own minds that the defendant committed the crime

**bias**

the potential for unfairness due to preconceptions, favoritism, or prior involvement. Bias is in favor, while prejudice is against.

**bifurcate**

to separate

**bigamy**

the crime of being married to two or more persons at the same time

**Bluebook**

common name for a *Uniform System of Citation*

**blue law**

a law preventing certain activities on a Sunday

**BNA**

Bureau of National Affairs, a private publisher of legal materials

**boilerplate**

standardized legal language, often referred to as legalistic bona fide good faith

**breach**

to break or fail to fulfill a promise or commitment

**breach of contract**

failure to fulfill written or oral agreements

**brief**

a written argument; to brief a case is to provide a summarization of the case's facts and analyze the specific legal issues

**"but for" rule**

"but for" the actions of the defendant, the plaintiff would not have suffered damages; proof of this factor is required to establish negligence

**CA**

court of appeals; an abbreviation often used in legal digests and publications

**CCA**

circuit court of appeals; an abbreviation often used in legal digests and publications

**CCH**

Commerce Clearinghouse, a publisher of legal materials

**C.D.**

Central District

**C.F.R.**

Code of Federal Regulations

**C.J.S.**

*Corpus Juris Secundum*, national legal encyclopedia by West

**CPA**

certified public accountant

**camera**

arguments heard *in camera* are in the judge's chambers

**canon**

a doctrine, principle, rule, or law

**capricious**

an act not based on reason or law

**caption**

heading of a legal document. The caption of a pleading contains the court, parties, and title of document. The caption of a memorandum contains whom the document is to and from, what it is about, and the date. The caption of an opinion (case) consists of the title (most likely the parties involved), the court issuing the opinion, the docket number, and the date of the opinion

**carnal knowledge**

sexual intercourse

**cartwheel**

a legal research technique designed to access an index

**case**

a legal dispute. Case sometimes means the matter on which an attorney or paralegal are working for the client, as in "our client's case is going to trial next week." The word may also refer to a published opinion.

**casualty**

the relation between cause and effect

**cause of action**

a lawful reason to bring legal action

**caveat**

a warning; the word literally means "beware"

**cede**

to transfer or assign

**censure**

a formal reprimand

**certificate of mailing (COM)**

a certificate that attests that a true and correct copy of a given document was sent to all parties involved. In litigation, the certificate should be signed by the person who actually places it in the mail, although some states require an attorney's signature. The court will usually consider the certificate a good-faith attempt to notify other parties, even though it is not sworn to under oath. Often replaced with a receipt of copy (ROC)

**certiorari**

Latin term meaning "to make sure or certain"; often related to the process by which an appeal is taken from one level of appellate court to the next highest level of appellate court. See also writ of certiorari and appeal

**chain of evidence**

when police or prosecutors preserve the chain of evidence, they are trying to guarantee the accuracy and value of the evidence, ensuring that it has not been tampered with or contaminated

**challenge**

to object

**chambers**

a judge's office

**charge**

to make a claim or allegation. May also refer to a judge's instructions to the jury

**charter**

a document that establishes a basic structure of an organization or local government

**choate** (pronounced ko-ate)

complete; able to stand up against future claims

**circuit**

geographic or subject-matter court jurisdictional boundary

**circumstantial evidence**

a fact that requires an inference to establish another fact

**citation** or **cite**

an address to a written reference, such as *Smith v. Jones*, 921 P.2d 934 (Colo. 1990). May also refer to a summons which is why many states refer to traffic tickets as citations

**cite checking**

to ensure the accuracy of citations within a legal document, both as to form of the cite and the substance of the quote

**cited material**

material mentioned (cited) by other material, such as a case being cited in another case

**citing material**

material that mentions, or cites, other material, such as a case citing another case

**civil law**

a violation of civil law does not directly harm the community, therefore, the person harmed must sue the violator in order to collect damages

**claim**

to demand, assert, or allege

**class action**

a lawsuit brought on behalf of a group or class of plaintiffs, such as suing the company that manufactured asbestos, to obtain monetary damages for all those harmed by the substance

**co-defendant**

more than one defendant sued in the same legal action in a civil case; the co-defendant may be named in the original complaint.

**codicil**

a supplemental modification to a will

**codified**

to arrange statutory material by topic

**coerce**

to compel unfairly or by force

**cohabitante**

to live together

**collateral**

a side issue; may or may not be relevant to the main issue, but is somehow connected. The terms also may refer to money or property used to secure a loan

**colloquy**

a private discussion between lawyers and the judge

**collusion**

to conspire; to cheat or defraud

**common law**

judge-made law, or case law; also refers to laws derived from the English common law system

**comparative negligence**

doctrine according to which the amount of damages awarded is proportional to each party's level of negligence. For instance, if the jury awards \$100,000 damages but determines that the plaintiff was 25 percent responsible, the plaintiff will receive \$75,000. *See* contributory negligence

**compensatory damages**

an award of money to compensate for actual monies lost, as opposed to punitive damages

**competent**

in legal terms, this means qualified. For a witness to be competent to testify, he must:

- *understand the obligation to tell the truth*
- *have the ability to communicate*
- *be knowledgeable as to the subject of his testimony*

**complaint**

the pleading that initiates the legal action and sets forth the general allegations against the defendant. The plaintiff does not argue his entire case in the complaint, but sets forth his claim in a skeletal fashion. The complaint is usually served with the summons. In some states, a complaint is called a petition or motion for judgment

**compulsion**

force or duress

**concur**

to agree

**concurrent**

together

**concurrent jurisdiction**

when multiple courts have potential jurisdiction over a dispute

**concurring opinion**

opinion of one or more judges who agree with the results of the majority, but arrive at that result for differing reasons

**consent**

to agree voluntarily

**consequential damages**

indirect damages; sometimes called special damages

**conservator**

an individual appointed by the court to oversee another person and his or her estate because that person has been declared incompetent

**consideration**

in order for a contract to be valid, each party must receive something of value, in other words, consideration.

**consortium**

often designates the marital relationship, but may also refer to the relationship between other individuals, usually family members. Loss of consortium is the loss of that relationship.

**conspiracy**

two or more persons plotting an unlawful act

**constitute**

to make up or consist of

**constitution**

the fundamental and highest form of law

**constitutional**

in accordance with the principles established by the constitution

**constructive**

inferred, implied. Constructive desertion, for instance, means that the actions or inactions of one person forces another person to leave. A husband who beats his wife could be deemed guilty of constructive desertion.

**contest**

to challenge or oppose

**continuance**

postponement

**contingent fee**

an attorney's fee that represents a percentage of the amount awarded at court or through settlement, if any

**contract**

a lawful agreement between two or more parties

**contributory negligence**

doctrine according to which the defendant can escape liability by establishing at least some negligence on the part of the plaintiff. See comparative negligence

**controvert**

to dispute

**conversion**

transfer; often refers to the prevention of the rightful use of property by its owner

**conveyance**

transfer of title of property

**corroborate**

to verify or confirm

**Corpus Juris Secundum (C.J.S.)**

a national legal encyclopedia by *West Publishing Company*

**counsel** or **counselor**

attorney

**count**

each separate charge or claim

**counterclaim**

a claim by the defendant against the plaintiff, usually contained in the defendant's answer. A counterclaim requires a response by the plaintiff to any new allegations (see reply)

**covenant**

agreement or promise

**creditor**

one to whom money is owed



**criminal law**

a violation of criminal law harms the community; therefore, the state acts against the violator. Penalties for violating criminal law include fines and imprisonment. One can be sued in civil court and charged in criminal court.

**cross claim**

a claim made by a defendant against a co-defendant.

**cross examination**

after direct examination, the other party may cross-examine the witness but is limited to the topics brought up during direct examination

**cumulative**

a supplement that combines previous supplements with new material; it may take the form of a pocket part or a separate softbound pamphlet. *See* supplement

**curia**

Latin for court

**curriculum vitae**

Latin for resumé

**curtilage**

an area surrounding a house used for household purposes

**dba**

doing business as

**damages**

an award of money paid to compensate for harm done; also, the "harm" itself

**debtor**

a person who owes money

**decedent**

dead person

**Decennial Digest**

*West Publishing Company's* digest collecting all digested material over a ten-year period

**decision**

opinion or case; written opinion of the court

**declaratory judgment**

judge's determination of specific rights or obligations of parties without awarding damages or granting relief

**deep pockets**

ability to pay large amounts of damages

**de facto**

in fact; an actuality

**defamation**

the diminishing of one's reputation or standing in the community. Libel is written defamation; slander is spoken defamation

**default**

to voluntarily refuse to respond or act

**default judgment**

a judgment based on the fact that one of the parties fails to appear or respond within the statutory period of time

**defendant**

the party against whom an action is brought

**defraud**

to cheat

**delectus personae**

Latin for "choice of persons," imparting the right of one partner to approve or choose other partners

**deliberate**

to consider

**delinquency**

an omission or failure

**demand**

a forceful claim

**demurrer**

a motion to dismiss without answering specific allegations in the complaint. This motion argues that even if the allegations are true, a cause of action has not been established. Most states now prohibit demurrers; however, attorneys still use the phrase in a manner synonymous with a motion to dismiss

**depositions**

oral questions that must be answered under oath. Depositions usually take place out of court, often in an attorney's office with a court reporter transcribing the testimony. Attorneys from both sides must be present; both have the opportunity to ask questions. Depositions can be for the purpose of questioning the opposing party or for questioning witnesses. Videotaped and audiotaped depositions are sometimes taken.

**deposition digest** or **deposition summary**

a summary of the material on each page of a deposition

**deposition index**

a list of the most critical events, people, places, or things in alphabetical order, indicating what pages those matters are referred to in the deposition

**detainer**

unlawful keeping of another's property

**dictum**

remarks by the judge not part of specific orders or rulings

**digest**

*West* digests are collections of headnotes arranged in topical order. To digest a deposition is to summarize each page.

**direct evidence**

evidence (usually from personal observation) that tends to establish a fact without the need of an inference

**direct examination**

questioning the witness first. The party that calls the witness to the stand conducts the direct examination.

**disbar**

to take away an attorney's right to practice law

**discharge**

to release

**disclosure**

to make available to the other side

**discoverable**

material or information that must be disclosed to the other side during the discovery process

**discovery**

the process and devices whereby one party obtains relevant case information from the other party. Used to even the playing field between parties by exposing all relevant facts upon which the court will ultimately base its decision. Discovery is generally between the parties and does not directly involve the court, although the certificate of mailing for each document is often filed. Methods of discovery include interrogatories, requests for admissions, requests for production of documents, requests for mental or physical examination, and depositions.

**dismissal with prejudice**

dismissal of a case that may not be re-litigated, because the court has found cause not to allow the action to proceed

**dismissal without prejudice**

when a court dismisses a case due to a procedural error, the parties are free to bring the case again once the procedural error is corrected

**disposition**

final determination

**disqualify**

to declare unsuitable

**dissent**

to oppose or disagree

**dissenting opinion**

opinion that disagrees with the majority

**distinguish**

to point out differences

**distress**

forced or troubled

**diversity of citizenship**

a federal court usually has jurisdiction only in cases involving federal questions or when the United States is a party. The major exception occurs when the parties involved in litigation are citizens of different states and the damages requested exceed a minimum set by federal statute, currently \$75,000.

**docket**

a list of cases the court is to hear on a given day

**domicile**

a permanent home

**donee**

person receiving a gift

**donor**

person making a gift duress unlawful pressure duty an obligation

**E.D.**

eastern district

**EEOC**

*Equal Employment Opportunity Commission*

**earnest money**

a deposit paid to show good faith

**effects**

personal property

**emancipation**

freedom

**embezzlement**

the act of secretly and fraudulently taking money

**eminent domain**

the power of the government to take possession of private property for public use when it is deemed in the best interest of the community. Usually, consent of the private property owner is not required, but just compensation must be paid

**en banc**

when the entire court sits to hear a case; tends to indicate a higher degree of importance

**enact**

to create or put into effect

**enacted law**

law created by a legislature

**enjoin**

to require

**enlarge**

to extend

**equitable**

just or fair

**equity**

value of property minus all debts against it. Courts of equity determine disputes that have no controlling statutory authority by applying equitable principles of fairness.

**erratum**

mistake

**establish**

to prove

**estate**

the property and monies controlled by a person

**ethics**

standards of behavior

**evidence**

that which tends to prove or disprove a fact in issue

**ex post facto**

Latin; "after the fact"

**examination**

questioning witnesses, generally under oath

**excuse**

to dismiss

**executive branch**

the branch of government that enforces, or executes, the law.

**executor**

one who is named in a will to administer an estate

**exemplary damages**

same as punitive damages; intended to punish or deter

**exemptions**

state-set limits on percentages or amounts of an individual's property that can be attached.

**exhibit**

something presented as physical evidence at trial

**exonerate**

to clear

**ex parte communication**

communication with the court without notifying the other side of the contents of that communication; generally not allowed

**ex parte hearing**

a hearing at court where only one party is present; temporary restraining orders (TRO) are heard ex parte; a garnishment is an example of an ex parte action

**expert witness**

a witness called to testify about a specific area relevant to the trial, such as a fingerprint expert or a doctor. An expert must be qualified by the court.

**express**

clearly defined

**extortion**

illegally compelling a person to pay money

**F. or F.2d or F.3d**

*Federal Reporter* series

**F.R.C.P. or Fed. R. Civ. P.**

Federal Rules of Civil Procedure

**fact pleading**

some states require a listing in the complaint of all major facts anticipated to be in dispute at trial. These are referred to as fact-pleading states. See notice pleading

**failure of consideration**

failure of a party to receive value when entering into a contract

**feasance**

doing an act

**federal**

national

**felonious**

an act intended to be a serious crime

**felony**

a serious crime punishable by a year or more in prison

**fiat**

Latin for “let it be done”; command

**fiduciary**

a person or entity responsible for the money, property, or wellbeing of another; imparts a higher standard of care.

**followed**

used as precedent

**forbearance**

refraining

**forensic**

having to do with the law

**foreseeability**

claim that a consequence to an act should have been considered

**forfeit**

to give up or lose a right or privilege

**form book**

legal reference book with checklists, forms, and examples of documents and procedures; a legal how-to book

**fornication**

sexual intercourse

**fortuitous**

accidental, by chance; does not indicate good fortune or luck

**fraud**

cheat

**frivolous**

worthless; legally groundless

**full faith and credit**

the doctrine by which one state will honor the laws and judgments of another state

**GPO**

Government Printing Office

**gag order**

order preventing parties from publicly discussing a matter



**garnishment**

attachment to a judgment-debtor's salary that is automatically turned over to the judgment-creditor until the judgment is satisfied. A judgment is required in order to garnish wages.

**grand jury**

a special jury impaneled to hear evidence from a prosecutor and determine whether there is enough evidence to return an indictment against a defendant

**guilty**

responsible for a crime

**H. or H.B.**

House bill

**habeas corpus**

Latin for "you have the body"; a writ of habeas corpus demands that a person be brought to court

**headnote**

summary of a portion of a case provided by the publisher at the beginning of a case

**hearsay rule**

in-court testimony of an out-of-court statement made by someone other than the in-court witness for the purpose of establishing the truth of matters asserted. In determining hearsay, the question of credibility lies with the out-of-court assenter

*exceptions to the hearsay rule*

hearsay is inadmissible in court unless it falls under one of the hearsay exceptions found in the rules of evidence

**holograph or holographic**

handwritten

**homicide**

taking the life of another may be murder, manslaughter, or not a crime at all (in some cases such as self-defense)

**Hon.**

honorable

**honor**

to abide by

**hornbook**

usually for law school students, covering a specific area of law

**hostile**

against; adverse

**hung jury**

a jury that cannot reach a verdict

**ILP**

Index of Legal Periodicals

***id.* or *ibid.***

Latin for “the same”; may refer to something found on the same page

**illicit**

unlawful

**immaterial**

trivial, unimportant, or irrelevant

**imminent**

immediate or about to occur

**immunity**

exemption from liability

**impanel**

to formally appoint a jury

**impeachment**

the act of showing that a witness is mistaken or lying

**impediment**

a legal obstacle

**impertinence**

a claim that some evidence may be relevant to the issue being discussed, but that the issue is irrelevant to the trial

**implied**

indirect awareness

**imputed**

treated as if

**in camera**

in the judge's chambers

**in forma pauperis**

Latin for "as a pauper," a status that allows a plaintiff to sue without court costs

**in limine**

Latin for preliminary; a motion in limine is a motion before or during a trial often used to exclude or limit certain evidence

**in loco parentis**

Latin, meaning acting in place of the parent for the benefit of the trial

**in perpetuity**

forever

**in re**

Latin; in the matter of; in regard to

**inadmissible evidence**

not to be considered by the jury

**inalienable**

that which cannot be taken away

**inchoate** (pronounced in-ko-ate)

incomplete; not due yet

**incite**

to urge or encourage

**incompetent**

lacking legal capacity to testify or perform at a certain standard

**incur**

to receive a burden, such as debt

**indemnify**

to compensate or promise to compensate

**indeterminate**

without a fixed time period

**indictment**

a grand jury's formal accusation of a crime against a defendant

**inducement**

promise or statement that persuades another to enter into an act or agreement

**infirmity**

a defect or diminishment

**informed consent**

approval based upon a belief that all relevant information has been disclosed

**information**

a document that alleges that a defendant has committed a crime

**infra**

Latin for below or to follow

**injunction**

court order to refrain from something

**in personam jurisdiction**

jurisdiction over the person

**in rem jurisdiction**

jurisdiction over the controversy, often property; see also quasi in rem jurisdiction

**instant**

present or current; the instant case is the case being discussed at the present time

**intent**

indicates that an act was committed on purpose

**intentional infliction of emotional distress**

the purposeful infliction of mental or psychological harm by act or omission

**interlocutory appeal**

an appeal made prior to or during a trial asking the higher court to provide a ruling on limited issues, not to determine final judgment. A party sometimes must receive approval of the trial court to proceed with an interlocutory appeal

**interrogatories**

written questions to a party that must be answered under oath (example: "Describe the events that led up to the accident.")

**intervenor**

one who voluntarily becomes part of a lawsuit in progress

**intervention**

an additional party (intervenor) who attempts to become part of the suit by filing a motion to intervene with the court

**intestate**

to die without a valid will

**intra**

within

**invitee**

one who is enticed or invited onto property

**involuntary manslaughter**

the unintentional killing of another

**ipso facto**

Latin for "by the fact itself"

**issue**

a question of law about a matter that will ultimately be decided by the court

**J.**

judge

**JP**

justice of the peace

**jeopardy**

danger or exposure to hazard or liability

**joinder**

joining together

**joint and several liability**

liable individually and collectively. If only one of several defendants has the ability to pay damages, he or she may be liable for all damages, not just a percentage.

**judgment**

creditor party awarded damages at trial

**judgment debtor**

party who must pay damages after a trial

**judicial branch**

the branch of government that interprets the law. The state and federal court systems make up the judicial branch

**jurisdiction**

the power of a court to hear and decide a case

**Key Number System**

legal research system by *West Publishing Company*

**L. Ed. and L. Ed. 2d**

*United States Supreme Court Reports, Lawyer's Edition*, by *Lawyers Cooperative Publishing Company*

**laches**

the doctrine that dictates that enforcement of a legal right can be denied if the person seeking to enforce the right unreasonably delayed the action to the prejudice of the person against whom the action is filed

**larceny**

stealing

**law**

the rules, standards, and enforceable expectations of society

**law review**

legal periodical published by a law school

**lay**

non-professional

**leading question**

a question that demonstrates the desired response

**leave**

by leave of the court means with permission of the court

**legal advice**

applying the law to a specific set of client facts and relaying that information to the client. Only a lawyer may provide legal advice

**legal analysis**

the application of the law to facts

**legalese**

old fashioned, legal jargon; often confusing, even to attorneys

**legal dictionary**

dictionary of legal terms, such as Black's or Barron's

**legal periodicals**

law reviews, loose-leaves, and journals by law schools, bar associations, and private publishers issued at regular intervals

**legislative branch**

the branch of government that creates, or enacts, the law. On the federal level, Congress is the highest entity; on the state level, the state legislature is the highest entity

**lessee**

a person leasing something from another person

**lessor**

a person leasing something to another person

**liable, liability**

responsible for

**Lexis**

a computerized legal research system

**libel**

written defamation

**limitation**

a restriction

**limited liability**

limited exposure to lawsuits; usually refers to limiting financial exposure to the amount of interest the individual has in the corporation being sued

**liquidate**

to pay off or eliminate a debt

**lis pendens**

an announcement attached to the title of a piece of property giving notice that there is litigation pending that may affect the title of that property. The purpose is to thwart transfer of the title and protect the property rights of parties in litigation.

**litigation**

a lawsuit

**loose-leaf service**

a three-ring or post-binder containing material that is sent out periodically as opposed to a hardbound publication

**M.D.**

middle district

**Magna Carta**

a 1215 English document that for the first time gave specific rights to individuals

**majority opinion**

the strongest form of opinion when more than 50 percent of the court agrees on a decision; a majority opinion is usually law until it is superseded or overturned

**malfeasance**

the commission by a public official of a wrongful act

**malice**

bad intentions

**malicious prosecution and abuse of process**

forcing a party to defend himself against warrantless prosecution

**mandamus**

Latin for "command"; often an order by one branch of government instructing another branch to do something

**mandatory authority**

authority that the court must rely upon

**manslaughter**

killing without malice

**Martindale-Hubbell Law Directory**

a directory of lawyers county by county

**mediation**

a method of settling a dispute without going to court, in which a third party facilitates the opposing parties in finding a satisfactory resolution to their dispute

**memorandum opinion**

very brief opinion, not much longer than the caption, which states the appellate court's disposition of a case, such as "rehearing denied," or "writ of certiorari granted"



**Miranda warning**

the notice given to individuals informing them of their right to remain silent; the warning must be given by the police to persons suspected of a criminal act if the police want to use any statements made at trial. Based on the U.S. Supreme Court case of *Miranda v. Arizona*

**misfeasance**

a lawful act improperly conducted

**misprision**

failure to carry out a public duty

**misrepresentation**

deceit; knowingly misleading another

**mistrial**

ending a trial due to a procedural error; the case may usually be brought again

**mitigating circumstances**

facts that may limit the degree to which one is held responsible

**mitigating damages**

a doctrine which states that a party that has been damaged must attempt to limit the furtherance of those damages; for instance, party A injures party B, but party B refuses medical treatment for a week causing the injuries to worsen; in this case, party A will not be liable for the damages that would have been avoided by prompt medical attention.

**modify**

the appellate court alters the decision of the trial court

**monition**

a warning by a judge

**motion or move**

a request that the court take some sort of action; may be written or oral

**motion for continuance**

a motion to postpone a trial or hearing to a later date

**motion for protective order**

a motion filed in response to some action or conduct by the opposing party; it asks the court to protect a witness from having to testify or to prevent evidence from being turned over. For instance, if one party feels that discovery requests are unfair, a motion for protective order may be filed

**motion for directed verdict**

a motion during the trial asking the judge to enter judgment on behalf of one client because the other party has failed to establish a prima facie case, thereby forgoing the need to consult the jury (if there is one)

**motion for judgment NOV**

*(non obstante verdicto, or notwithstanding the verdict)*

a motion made after the jury has returned its verdict that asks the judge to enter a judgment opposite the jury's verdict

**motion for new trial**

a motion that the court grant a new trial because of procedural errors made during the trial

**motion for summary judgment**

a motion made before trial requesting the court to enter judgment on behalf of a client without going through an entire trial because there are no material facts in dispute, only issues of law. A motion for summary judgment may also be filed to limit the issues at trial

**motion to compel**

a motion asking the court to require that the other party perform some act, such as answering discovery requests or producing a witness for questioning. If the other party ignores the order, the court may find that party in contempt.

**motion to dismiss**

request to end a case without going to trial, or to end a trial in progress

**motion to dismiss for lack of prosecution**

if a plaintiff takes no action on a filed matter for an extended period of time, a defendant may file this motion. The court determines how much delay warrants a granting of this motion.

**murder**

the unlawful killing of another with premeditation or malice

**NALA**

National Association of Legal Assistants

**N.D.**

Northern District

**N.E. or N.E.2d**

North Eastern Reporter

**National Reporter System**

*West Publishing Company's* series of case-law books made up of regional reporters

**negligence**

establishment of a duty, followed by a breach of that duty and an establishment of damages. For compensation to be awarded, it must be established that the negligence was the proximate cause of the damages.

**negligence per se**

negligence by violating the law

**next friend**

acting in the interest of a child without being a guardian

**no contest**

see *nolo contendere*

**nolle prosequi**

Latin; the prosecution decides not to prosecute

**nolo contendere**

a no contest plea in which a defendant refuses to contest the charges, but admits no guilt. A person entering such a plea can be sentenced as though he or she had entered a guilty plea.

**non-authority**

authority that the court would not rely upon, such as invalid authority, digests, or *Shepard's Citators*

**non prosequitur (non pros)**

Latin for "does not follow up"; if the plaintiff fails to act on a filed lawsuit for an extended period, the defendant may be granted a favorable judgment

**notary public**

a person authorized by the state to witness and verify signatures and administer oaths

**notice**

knowledge of facts, the act of being informed

**notice of appeal**

the vehicle by which the case is taken from the trial court to the appellate court. The notice of appeal is filed with the trial court. Copies are sent to the other parties and the appellate court.

**notice pleading states**

states that require only that a complaint generally inform the defendant of the allegations against them, as opposed to fact-pleading states

**null**

no longer legally valid

**nunc pro tunc**

Latin for "now for then" used in situations in which something that occurs in the present is treated by court declaration as if it occurred then

**nuncupative will**

oral will

**oath**

a sworn statement

**obligation**

a duty imposed by a contract

**obligee**

a person to whom a legal duty is owed

**obligor**

a person owing a legal duty

**of counsel**

a lawyer who is not a member of a firm, but has a business relationship with the firm involving representing common clients. Also, when an attorney represents a client, he is of counsel for that client

**officer of the court**

a judge, bailiff, sheriff, etc. Lawyers are also officers of the court and have fundamental obligations to uphold the integrity and expectations of the court.

**official**

published by or under authority of the government

**official reports**

government-produced law books containing opinions of the court. A report, as opposed to a reporter, is generally official, meaning it is published by or under the authority of the state

**opinion**

written decision of the court

**oral evidence**

evidence given orally; also called testimonial evidence

**original jurisdiction**

the court with the initial power to hear a specific legal matter

**overt**

in the open

**P. or P.2d**

Pacific Reporter, second series

**paralegal**

a non-lawyer performing tasks that require specific legal skills, usually under the supervision of an attorney

**parallel cite**

an additional publication that publishes the same case

**parol**

oral, not written

**parol evidence rule**

oral evidence may not be produced as evidence to controvert written evidence if the written document was intended to be a complete statement of the agreement

**parties**

individuals, groups, or entities involved in a legal action

**pecuniary**

relating to money

**per curiam**

by the court; used when the entire court, rather than an individual justice, is credited with writing an opinion

**perjury**

lying while under oath

**perpetuating testimony**

previously taken testimony, usually the deposition of a seriously ill person, that is allowed to be presented at trial

**personal service**

service of legal papers upon an individual as opposed to a corporation, business, or registered agent

**petition**

a formal request to the court in some court actions, such as a divorce or probate case. A petition initiates the legal proceedings; in some states, such as Texas, a petition is a complaint

**physical evidence**

evidence that can be touched; also called tangible or demonstrative evidence

**pinpoint citation**

a citation that features both the page on which a case begins and the specific page on which a quotation appears. For example, if a lawyer quotes the case of *Smith v. Jones* in a legal document, the cite would appear as follows: *Smith v. Jones*, 453 F.2d 390, 393 (9th Cir. 1986). This informs the reader that the case is found in volume 453 of the Federal Reporter, Second Series, and that the case begins on page 390. It also pinpoints 393, the page on which the quote appears.

**plain view doctrine**

the doctrine that states that police do not need a warrant to initiate a further search for something that was observed in plain view. For example, a police officer knocks on a door to return lost property and from the open doorway sees a bag of marijuana. In this case, the officer does not need a warrant to proceed.

**plaintiff**

the party that initiates the suit; the party making the initial claims or allegations

**plea bargain**

when the accused and the prosecutor in a criminal case negotiate a disposition of the case. It usually involves the defendant agreeing to plead guilty to a lesser charge, in return for the state dropping the more serious offense.

**pleadings**

legal documents filed with the court asking it to take some sort of action. In most cases, the party filing the document must send a copy to the other parties to give them ample opportunity to respond. The major pleadings are the complaint, answer, affirmative defense, counterclaim, cross-claim, and the reply.

**pocket part**

a supplement in the back of a volume that alters or adds to material contained in the hardbound volume. When information from previous pocket parts is combined with new information, the pocket part may be referred to as a cumulative supplement. See cumulative and supplement

**polling the jury**

asking each juror individually to state what he or she believes the outcome of the case should be

**popular name**

some statutes are referred to by a popular name as well as a cite; for instance, the Mann Act. Federal statutes have a separate volume that acts as an index to these cases

**positive law**

law that has been enacted by a legislature

**preponderance of the evidence**

degree of proof that it is "more likely than not" that a fact is as one party alleges it to be. It often requires that a simple majority (or some other degree less than 100 percent) of the jury agree.

**prerogative**

a privilege or special power

**presumptive**

assumed or inferred

**pretrial hearing**

a hearing usually held for the purpose of clarifying issues and determining the length of the upcoming trial

**prima facie case**

a case or argument that is sufficient on its face. If all representations made are eventually proven true, there is a legitimate cause of action. Means that even if all the representations are true, there is still no legitimate cause of action. A prima facie case must exist to proceed or prevail under any cause of action.

**privilege**

the right to refuse to testify or to prevent someone else from testifying

**probable cause**

a reasonable basis to believe that a person has committed a crime

**probate**

establishing the validity of a will

**pro bono**

work done by an attorney for no charge or at a reduced fee

**promissory note**

a legal document that acknowledges and promises to pay a debt

**proponent**

one who proposes something

**proprietary**

involving ownership

**proximate cause**

the event or point at which a series of incidents begin that ultimately result in an event with damages occurring

**prudent person rule**

doctrine according to which a trustee is expected to invest funds in relatively safe and conservative investments

**punitive damages**

damages not related to the actual harm incurred, but intended to punish or deter such acts in the future

**quash**

to annul or suppress

**quasi in rem jurisdiction**

jurisdiction over property although the property is not the controversy

**query**

question

**quid pro quo**

Latin for "this for that"



**quit**

to leave or abandon

**reaffirmation**

acceptance of a continuing obligation to pay a debt even when there may be no obligation to do so

**reasonable**

representing an expected standard as set by society or the community

**rebut**

to refute or dispute

**receiver**

a court-appointed person who manages money during a suit

**recess**

to take a break

**recidivist**

repeat offender

**reciprocal**

of mutual benefit

**record**

the official collection of the transcripts, pleadings, and exhibits from the trial

**recourse**

the right to legal satisfaction

**recovered** or **recovery**

monies awarded during trial that cover damages

**recuse** or **recusal**

the act a judge takes when he or she dismisses him or herself from a case

**redirect examination**

the party conducting direct examination conducts the redirect examination to clarify matters brought up during cross. Discussion is limited to matters considered during cross. Some courts allow recross examination, but it is not typical.

**redress**

to seek attention of the court

**registered agent** or **resident agent**

a business or person authorized to accept service on behalf of a corporation as though the corporation itself had been served

**release**

to give up a claim, right, or interest

**relevant**

a fact that tends to make the existence of another allegation more or less probable

**remand**

the action an appellate court takes when it sends a case back to the trial court for further deliberation

**remittitur**

the process whereby a judge subtracts from the amount of damages a jury has rewarded. In effect, the judge gives the party awarded damages the choice of accepting a lesser amount or allowing the judge to grant the other side a new trial.

**render**

to pronounce

**repeal**

to remove

**reply**

plaintiff's response to new facts contained in the answer, affirmative defenses, or counterclaim

**report**

a law book containing opinions of the court, also called cases. A report, as opposed to a reporter, is generally official, meaning it is published under the authority of the state (see official reports)

**reporter**

a law book containing opinions of the court, also called cases. A reporter, as opposed to reports, is unofficial, meaning it is published by a private publisher

**request for admissions**

a written statement that the opposing party must admit or deny under oath. Failure to respond within a specified period of time (usually 30 days) means that the statements will be deemed admitted. (Example: "Admit or deny you had been drinking alcohol shortly before the accident.")

**request for production of documents or things**

a request that documents and/or things be provided for the purpose of inspection (example: "Please produce any and all receipts for Acme Dry Cleaning between July 1 and July 14, 1991)

**request for mental or physical examination**

request that the other party (usually the plaintiff) be subjected to a mental or physical examination. This is the one form of discovery that may require court approval so that it cannot be used to intimidate.

**request or demand for jury trial**

in most courts, a party must request a jury well in advance of the trial

**res**

Latin for "thing" or "things"

**res gestae**

connected to or concurrent with an event or occurrence

**res judicata**

the doctrine that a case that has been decided on its merits will not be relitigated

**rescind**

to annul or reverse

**rescission**

annulment of a contract

**resident agent**

see registered agent

**respondeat superior**

Latin for "the master will answer"; the doctrine according to which one in a supervisory position, such as an attorney, will be held accountable for the acts of those under his supervision

**respondent**

one who responds to an appeal or suit; appellee

**responsive pleading**

a pleading that responds to another

**Restatements of the Law**

a series of legal treatises by the *American Law Institute* (ALI)

**restitution**

giving back or returning

**retainer**

money paid to secure the services of an attorney; actual services will be deducted from the retainer. Similar to a deposit

**reverse**

when the appellate court disagrees with the decision of the trial court

**revoke**

to reverse or rescind

**S.D.**

Southern District

**S.E. or S.E.2d**

South Eastern Reporter

**S. Ct.**

Supreme Court Reporter by *West Publishing Company*

**sanction**

penalty or fine; may also mean to permit something

**satisfaction**

payment of a debt

**sequester**

to separate or isolate

**sentence**

in a criminal case, the sentence is the punishment provided by the court, sometimes after a recommendation by a jury

**sentencing phase**

in some trials, after the jury returns its verdict, a new phase of the trial begins to determine what the punishment will be.

**serve**

to present legal documents

**service of process**

"process" is the summons and complaint; therefore, service of process is the presenting of the summons and complaint upon a defendant in a court action

**settlement**

a compromise between parties prior to or during litigation, negating the necessity for further judicial proceedings

**setoff** (or set off, or set-off)

an equalization of debt

**Shepard's Citators**

the major citator; validates law

**show-cause order**

an order to explain why the person should not be held in contempt for failing to obey a previous court order

**slander**

oral defamation

**slip law**

manner in which a new statute is first published (in pamphlet form)

**slip opinion**

manner in which a recently decided case is first published (in pamphlet form)

**So. or So. 2d**

Southern Reporter

**solicitation**

the pursuit of business from specific prospective clients; unethical for lawyers, paralegals, and legal secretaries

**specific performance**

a requirement that a person or corporation fulfill the specific obligations of a contract

**ss**

sworn statement

**star paging** or **star pagination**

a tool that unofficial reporters use to inform the researcher what page a case would be found in the official publication

**stare decisis**

to stand by previous court decisions: "let the decision stand." The doctrine whereby a previous court decision will guide the court in deciding a current case unless there is a compelling reason to hold otherwise

**stay**

to postpone or delay enforcement

**stipulation**

a fact agreed to by parties that will not be contested at court

**strict liability**

a concept through which one may be held liable or guilty even when the individual is not directly responsible for the damages

**sua sponte**

Latin; voluntarily; as in, on the court's own motion

**subordination**

admission that a claim or right is weaker than another

**subpoena**

a document issued under authority of the court to compel the appearance of a witness

**subpoena duces tecum**

a document issued under authority of the court to compel a witness to bring certain documents to court (or to a deposition) at the time of appearance

**subrogation**

the replacing of one person for another in a legal matter, conferring all rights and obligations

**substitute service**

service upon a designated or registered agent instead of the party

**summons**

the legal document that notifies a defendant that he is being sued or charged in a legal action and that notifies him that he must respond or appear within a specific period of time; usually served upon the defendant with the complaint

**sunset law**

a concept through which an administrative agency will cease to exist unless the legislature specifically extends its existence

**sunshine law**

a law that certain governmental meetings or records must be open to the public

**supersede**

to replace

**supplement**

a manner in which publishers update materials; examples include pocket parts and cumulative supplements

**supra**

Latin for above or earlier

**surety**

a company or person that guarantees a loan or debt

**surrogate**

a person who stands in place of another sustain to uphold

**tender**

to offer money

**testate or testacy**

to leave a valid will

**testify**

to give evidence under oath

**tickler system**

a method of calendaring that reminds the lawyer, paralegal, or secretary at periodic intervals that something is due

**tort**

a civil wrong

**tortious**

wrongful

**tortfeasor**

one who commits, or is alleged to have committed, a tort

**Total Client Service Library (TCSL)**

legal research system by *Lawyers Cooperative Publishing Company* that directs the researcher to other materials and authorities referencing the same subject matter

**transitory action**

a suit that may be brought in many places

**treatise**

a book on a specific area of law by a private person or company

**trespass and nuisance (environmental torts)**

unwarranted and unauthorized entry on one's property or the devaluation of enjoyment of one's property due to intrusive acts

**trial court**

where legal actions commence; has one judge and often a jury

**trial notebook**

a collection of all the materials the attorney needs at trial

**trier of fact**

the jury, or in a bench trial, the judge

**trier of law**

the judge

**TRO**

temporary restraining order

**turpitude**

immorality; dishonesty

**U.C.C.**

Uniform Commercial Code

**U.S.C.**

United States Code (official)

**U.S.C.A.**

United States Code Annotated (unofficial, by *West*)

**U.S.C.S.**

United States Code Service (unofficial, by *Lawyers Cooperative*)

**unauthorized practice of law**

non-lawyers doing what only lawyers may do

**United States District Court**

trial court where federal actions commence

**United States Circuit Courts of Appeal**

federal appellate courts broken into federal circuits. A circuit is a collection of districts; thus, a circuit court is responsible for appeals from a collection of district courts

**United States Supreme Court**

highest court in the United States; court of last resort



**usury**

an unfairly high rate of interest

**v.**

versus, as in *Smith v. Jones*

**vacate**

to set aside or replace

**vel non**

or not

**venue**

place of trial

**verdict**

determination of the jury

**vested**

a part not to be taken away

**vicarious liability**

liability for acts of another person; for example, a lawyer may be responsible for the acts of the paralegal if the acts were within the scope of the paralegal's employment

**voidable**

capable of being made void

**voir dire**

questioning of prospective jurors to determine their fitness to sit for a case; also, questioning of potential witnesses to determine the relevance or appropriateness of their testimony. The questioning is conducted outside the hearing of the jury

**W.D.**

Western District

**waive**

to give up a right

**Westlaw**

computerized legal research system by *West Publishing Company*

**willful**

intentional

**witness**

one making a sworn statement under oath, often one who has observed something

**work-product rule**

see attorney work product

**writ**

an order by a judge that something, out of court, be done or completed

**writ of certiorari**

the vehicle by which a case is taken from a court of appeals (state or federal) to a supreme court (state or federal); the means by which a case is taken from a state supreme court to the U.S. Supreme Court

**wrongful death**

death due to another's negligence

**wrongful imprisonment**

restriction of an individual's freedom of movement, physically or mentally