

## GLOSSARY -- COMMON LEGAL TERMS

NOTE: The following definitions are not legal definitions. Rather, these definitions are intended to give you a general idea of the meanings of these words. "Black's Law Dictionary" is a dictionary that provides comprehensive definitions of legal terms. This dictionary is available at most law libraries.

### A

Abstract of title	A chronological summary of all official records and recorded documents affecting the title to a parcel of real property.
Acceptance	The taking and receiving of anything with the intention of retaining it.
Accomplice	1. A partner in a crime. 2. A person who knowingly and voluntarily participates with another in a criminal activity.
Acknowledgment	1. A formal declaration before an authorized official by the person who executed an instrument that it is his/her free act and deed. 2. The certificate of the official on such instrument attesting that such execution was so acknowledged.
Acquittal	A release, absolution or discharge of an obligation or liability. In criminal law, the finding of not guilty.
Action	Case, cause, suit or controversy disputed or contested before a court.
Additur	An increase by a judge in the amount of damages awarded by a jury.
Adjudication	1. Giving or pronouncing a judgment or decree. 2. The judgment given.
Administrative agencies	Agencies created by the legislative branch of government to administer laws pertaining to specific areas such as social security, taxes, transportation and labor.
Administrator	1. One who administers the estate of a person who dies without a will. 2. A court official.

Admiralty law	Also, maritime law. That body of law relating to ships, shipping, marine commerce and navigation; the transportation of persons or property by sea, etc.
Admissible evidence	Evidence that can be legally and properly introduced in a civil or criminal trial.
Admonish	To advise or caution. For example, the court may admonish counsel for improper actions.
Advance sheets	Paperback pamphlets published by legal publishers periodically which contain cases. When there are a sufficient number of cases, advance sheets are replaced by a bound volume.
Adversary proceeding	A proceeding having opposing parties, such as a plaintiff and a defendant.
Adverse possession	Method of acquiring real property under certain conditions by possession of same for a statutory period.
Affiant	The person who makes and subscribes to an affidavit.
Affidavit	A voluntary, written, declaration of facts, confirmed by oath of the party making it before a person with authority to administer the oath.
Affirmation	A solemn and formal declaration that an affidavit is true. This may be substituted for an oath in certain cases.
Affirmative defense	A defense raised in a responsive pleading, for example, an answer, concerning a matter raised in a pleading; affirmative defenses include contributory negligence or estoppel in civil actions and in criminal cases insanity, duress or self-defense.
Affirmed	In the practice of appellate courts, the word means that the decision of the trial court is found to be correct on appeal.

## Common Legal Terms.2

Agreement	Mutual consent.
Aid and Abet	To actively, knowingly or intentionally assist another person in the commission or attempted commission of a crime.
Alien	A foreign-born person who has not qualified as a citizen of the country.
Allegation	A statement of the issues in a written document (a pleading) which a person is prepared to prove in court.
Alteration	Changing or making different.
Alternative dispute resolution	A process by which parties can settle a dispute without a full, formal trial. Methods include mediation, conciliation, arbitration and settlement, among others.
American Bar Association	A national association of lawyers whose primary purpose is improvement of lawyers and the administration of justice.
American Law Reports	A publication which reports cases from all United States jurisdictions by subject matter.
Ancillary	A proceeding which is auxiliary or subordinate to another proceeding.
Annotations	Remarks, notes, case summaries or commentaries following a statute which describe interpretations of a statute or a case.
Answer	A formal, written statement by the defendant in a lawsuit which answers each allegation contained in the complaint.
Answers to Interrogatories	A formal, written statement by a party to a lawsuit which answers each question or interrogatory propounded (asked) by the other party. These answers must be acknowledged before a notary public or other person authorized to take acknowledgments.

### Common Legal Terms.3

Antitrust acts	Federal and state statutes to protect trade and commerce from unlawful restraints, price discriminations, price fixing and monopolies.
Appeal	A request to a higher court to review a lower court decision.
Appeal Bond	A guaranty by the appealing party which insures that certain court costs will be paid.
Appearance	The act of formally coming into court as a party to a suit either in person or through an attorney.
Appendix	Supplementary materials added to the end of a document.
Appellate court	A court having jurisdiction to hear appeals and review a lower court's decisions.
Appellee	The party against whom an appeal is taken.
Arbitration	The hearing of a dispute by an impartial third person or persons whose award the parties agree to accept.
Arbitrator	A private, disinterested person chosen by the parties in arbitration to hear evidence concerning the dispute and to make an award based on the evidence.
Arraignment	The hearing at which the accused is brought before the court to enter a plea to the criminal charge in the indictment. A party may plead "guilty," "not guilty," or where permitted, "nolo contendere." <u>See</u> preliminary hearing.
Arrest	To take into custody by legal authority.
Assault	A threat to inflict injury on someone with an apparent ability to do so. Also, any intentional display of force that would give the victim reason to fear or expect immediate bodily harm.
Assignment	The transfer to another person of an interest in any property, real or personal.

#### Common Legal Terms.4

Assumption of risk	A doctrine under which a person may not recover for an injury received when a person has voluntarily exposed himself/herself to a known danger.
Attachment	Taking a person's property to satisfy a court-ordered debt.
Attorney-at-law	An advocate, counsel or official agent employed in preparing, managing and trying cases in the courts.
Attorney-in-fact	A person (who is not necessarily a lawyer) authorized by another to act in his or her place, either for some particular purpose, as to do a specific act or for the transaction of business in general, not of legal character. This authority is conferred by an instrument in writing, called a "letter of attorney," or more commonly "power of attorney." You must be an attorney <u>at law</u> in order to represent another party in court.
Attorney of record	The principal attorney in a lawsuit who signs all formal documents relating to the suit. In pro se cases, the party signs such documents.

## B

Bail	Money or other security (such as a bail bond) provided to the court to temporarily allow a person's release from jail and assure their appearance in court. "Bail" and "Bond" are often used interchangeably.
Bail bond	An obligation signed by the accused to secure his or her presence at the trial. This obligation means that the accused may lose money by not appearing for the trial. Often referred to simply as "bond."
Bailiff	An officer of the court responsible for keeping order, maintaining appropriate courtroom decorum and custody of the jury.

Bankruptcy	Refers to statutes and judicial proceedings involving persons or businesses that cannot pay their debts and seek the assistance of the court in getting a fresh start. Under the protection of the bankruptcy court, debtors may be released or "discharged" from their debts, perhaps by paying a portion of each debt. Bankruptcy judges preside over these proceedings. The person who owes the debts is called the debtor and the people or companies to whom the debtor owes money are called creditors.
Bankruptcy Judge	The judge who determines whether a debtor is entitled to a discharge in bankruptcy.
Bankruptcy law	The area of federal law dealing with bankrupt persons or businesses.
Bar	1. Historically, the partition separating the general public from the space occupied by the judges, lawyers and other participants in a trial. 2. More commonly, the term means the whole body of lawyers.
Bar examination	A state examination taken by prospective lawyers in order to be admitted and licensed to practice law.
Battery	A beating or wrongful physical violence. The threat to use force is an "assault;" the actual use of force is a battery, which usually includes an assault.
Bench	The seat occupied by the judge. More broadly, the court itself.
Bench trial	Trial without a jury in which a judge decides the facts. (Also known as court trial.)
Bench warrant	An order issued by a judge for the arrest of a person.
Beneficiary	Someone named to receive property or benefits in a will. In a trust, a person who is to receive benefits from the trust.
Bequeath	To give a gift to someone through a will.
Bequests	Gifts made in a will.

## Common Legal Terms.6

Best evidence	Primary evidence; the best evidence available. Evidence short of this is "secondary." For example, an original letter is "best evidence," while a photocopy of a letter is "secondary evidence."
Beyond a reasonable doubt	The burden of proof that the State must establish in a criminal action.
Bond	<u>See</u> bail bond. A written agreement by which a person insures he/she will pay a certain sum of money if he/she does not perform certain duties.
Bound supplement	A supplement to a book or books which updates the material in permanent form. <u>See</u> pocket part.
Booking	The process of photographing, fingerprinting and recording identifying data of a suspect. This process follows the arrest.
Breach	1. The breaking or violating of a law, right or duty, either by an act or omission. 2. The failure to carry out any condition of a contract.
Breach of contract	An unjustified failure to perform under the terms of a contract when performance is due.
Brief	A written argument by counsel or a pro se litigant arguing a case that contains a summary of the facts of the case, pertinent laws and an argument of how the law applies to the fact. Also called a memorandum of law.
Burden of proof	In the law of evidence, the necessity or duty of affirmatively proving a fact or facts in dispute on an issue raised between the parties in a lawsuit. The responsibility of proving a point.
Business bankruptcy	A proceeding under the Bankruptcy Code filed by a business entity.
Bylaws	Rules or laws adopted by an association or corporation that governs its actions.

## Common Legal Terms.7

## C

Capital crime	A crime punishable by death.
Calendar	A list of cases scheduled for hearing in court.
Canons of ethics	Standards of ethical conduct for attorneys.
Capacity	Having legal authority or mental ability. Being of sound mind.
Caption	Heading or introductory part of a pleading.
Case law	Law established by previous decisions of appellate or district courts. <u>See</u> stare decisis in Foreign Words Glossary.
Cases	General term for an action, cause, suit or controversy, at law or in equity.
Cause	A lawsuit, litigation or action. Any question, civil or criminal, litigated or contested before a court of justice.
Cause of action	The fact or facts which give a person a right to relief in court.
Caveat	A warning; a note of caution.
Censure	An official reprimand or condemnation of an attorney. <u>See</u> disbarment or suspension.
Certification	1. Declaration that a statement is true. 2. Declaration that an instrument is a true and correct copy of the original.
Certiorari	A writ of review issued by a higher court to a lower court. A means of getting an appellate court to review a lower court's decision. If an appellate court grants a writ of certiorari, it agrees to take the appeal. (Sometimes referred to as "granting cert.")
Challenge	An objection, such as when an attorney objects at a hearing to the seating of a particular person on a civil or criminal jury.

Challenge for cause	A request from a party to a judge that a prospective juror not be allowed to be a member of a jury because of specified causes or reasons. <u>See</u> peremptory challenge.
Chambers	A judge's private office. A hearing in chambers takes place in the judge's office outside of the presence of the jury and the public.
Change of venue	Moving a lawsuit or criminal trial to another place for trial. <u>See</u> venue.
Charge, jury	The judge's instructions to the jury concerning the law that applies to the facts of the case on trial.
Chief Judge	Presiding or administrative judge in a court.
Chattel	An article of personal property.
Child	Offspring of parentage; progeny, "issue."
Chronological	Arranged in the order in which events happened; according to date, from the first event to the last event.
Circumstantial evidence	All evidence except eyewitness testimony. One example is physical evidence, such as fingerprints, from which an inference can be drawn.
Citation	1. The written reference to legal authorities, precedents, reported cases, etc., in briefs or other legal documents. 2. A writ or order issued by a court commanding the person named therein to appear at the time and place named.
Citators	A set of books which provides the subsequent history of reported decisions through a form of abbreviations or words.
Civil	Relating to private rights and remedies sought by civil actions as contrasted with criminal proceedings.
Civil action	An action brought by a party to enforce or protect private rights.

Civil law	Law based on a series of written codes or laws.
Civil procedure	The rules and processes by which a civil case is tried and appealed, including the preparations for trial, the rules of evidence and trial conduct and the procedure for pursuing appeals. In the Northern District, parties must follow both the federal and local rules of civil procedure.
Claim	1. A cause of action in a law suit. 2. A debt owing by a debtor to another person or business.
Class action	A lawsuit brought by one or more persons on behalf of a larger group. Individuals seeking to maintain a class action must file a formal motion requesting certification of the class; a judge may then choose to certify the proposed class pursuant to Fed.R.Civ.P. 25.
Clean air acts	Federal and state environmental statutes enacted to regulate and control air pollution.
Clear and convincing evidence	Standard of proof used in certain lawsuits and in regulatory agency cases. It governs the amount of proof that must be offered in order for the plaintiff to win the case.
Clerk of Court	Administrator or chief clerical officer of the court.
Closing argument	The closing statement, by counsel or a pro se litigant, to the trier of facts after all parties have concluded their presentation of evidence at trial.
Code of Federal Regulations	(CFR) An annual publication which contains the cumulative executive agency regulations.
Code of Professional Responsibility	The rules of conduct that govern the legal profession.
Codicil	An amendment to a will.

Collateral Estoppel	Doctrine which provides that a court ruling concerning a disputed set of facts in one action is binding on those same parties in future proceedings against each other.
Commit	To send a person to prison, asylum or reformatory by a court order.
Common law	Law established by subject matter heard in earlier cases. Also called case law.
Commutation	The reduction of a sentence, as from death to life imprisonment.
Comparative negligence	The rule under which negligence is measured by percentage, (and damages are diminished) in proportion to the amount of negligence attributable to the person seeking recovery.
Complainant	The party who complains or sues; one who applies to the court for legal redress. <u>See</u> plaintiff.
Complaint	1. The legal document that usually begins a civil lawsuit. It states the facts and identifies the action the court is asked to take. 2. Formal written charge that a person has committed a criminal offense.
Conciliation	A form of alternative dispute resolution in which the parties bring their dispute to a neutral third party, who helps lower tensions, improve communications and explore possible solutions. Conciliation is similar to mediation, but it may be less formal.
Concurrent sentences	Sentences for more than one crime that are to be served at the same time, rather than one after the other. (Compare with cumulative or consecutive sentences.)
Condemnation	The legal process by which the government takes private land for public use, paying the owners a fair price. <u>See</u> eminent domain.
Conformed copy	An exact copy of a document that could not be or was not copied. For example, a written signature may be replaced on a conformed copy with a notation that it was signed by the parties.

Consecutive sentences	Successive sentences, one beginning at the expiration of another, imposed against a person convicted of two or more crimes. <u>See</u> cumulative or concurrent sentences.
Consent	Agree to voluntarily accept the wish of another.
Conservatorship	Legal right given to a person to manage the property and financial affairs of a person deemed incapable of doing that for himself or herself. <u>See</u> guardianship.
Consideration	The price bargained for and paid for a promise, goods or real estate.
Constitution	The fundamental law of a nation or state which establishes the character and basic principles of the government.
Constitutional law	Law set forth in the Constitution of the United States and the state constitutions.
Consumer bankruptcy	A proceeding under the Bankruptcy Code filed by an individual (or husband and wife) who is not in business.
Contempt of court	Willful disobedience of a judge's command or of an official court order.
Continuance	Postponement of a legal proceeding to a later date. Also, adjournment.
Contract	An agreement between two or more persons which creates an obligation to do or not to do a particular thing either orally or in writing.
Contributory negligence	The rule of law under which an act or omission of plaintiff is a contributing cause of injury and a possible bar to a complete recovery.
Conveyance	Instrument transferring title of an object from one person or group of persons to another.
Conviction	A judgment of guilt against a criminal defendant.

Corroborating evidence	Supplementary evidence that tends to strengthen or confirm the initial evidence.
Counsel	A legal adviser; a term used to refer to lawyers in a case.
Counterclaim	A claim made by the defendant in a civil lawsuit against the plaintiff.
Court	A body in government to which the administration of justice is delegated.
Court-appointed attorney	Attorney appointed by the court to represent a defendant, usually with respect to criminal charges and without the defendant having to pay for the representation.
Court costs	The expenses of prosecuting or defending a lawsuit, other than attorneys fees. An amount of money may be awarded to the successful party (and may be recoverable from the losing party) as reimbursement for court costs.
Court of original jurisdiction	A court where a matter is initiated and heard in the first instance; a trial court.
Court reporter	A person who transcribes by shorthand or stenographically takes down testimony during court proceedings, a deposition or other trial-related proceedings.
Court rules	Regulations governing practice and procedure in the various courts.
Creditor	A person to whom a debt is owed by another.
Crime	An act in violation of the penal laws of a state or the United States. A positive or negative act in violation of penal law.
Criminal justice system	The network of courts and tribunals which deal with criminal law and its enforcement.

Cross-claim	A pleading which asserts a claim arising out of the same subject matter as the original complaint against a co-party. For example, a co-defendant may file a cross-claim against another co-defendant for contribution for any damages assessed against the cross-claimant.
Cross-examination	The questioning of a witness produced by the other side.
Cumulative sentences	Sentences for two or more crimes to run consecutively, rather than concurrently. <u>See</u> consecutive sentences.
Custody	Detaining of a person by lawful process or authority to assure his or her appearance to any hearing; the jailing or imprisonment of a person convicted of a crime.

## D

Damages	Money awarded to a person injured by the wrongful act of another person.
Debtor	One who owes a debt to another; a person filing for relief under the Bankruptcy Code.
Decision	The opinion of the court in concluding a case at law.
Declaratory judgment	A statutory remedy for judicial determination of a controversy where a party is in doubt about his/her legal rights.
Decree	An order of the court. A final decree is one that fully and finally disposes of the litigation. <u>See</u> interlocutory.
Defamation	That which tends to injure a person's reputation. <u>See</u> libel and slander.
Default	Failure of the defendant to appear and answer the summons and complaint.
Default judgment	A judgment entered against a party who fails to appear in court or respond to the charges.

Defendant	The person defending a suit.
Defense of property	Affirmative defense in criminal law or tort law where force was used to protect one's property.
Deficient	Incomplete; defective; not sufficient in quantity or force.
Defunct	A corporation no longer operative; having ceased to exist.
Demurrer	A pleading filed by the defendant which alleges that the complaint as filed is not sufficient to require an answer.
Dependent	One who derives existence and support from another.
Deposition	Testimony of a witness or a party taken under oath outside the courtroom, the transcript of which may become a part of the court's file.
Digests	Legal volumes that contain summaries of cases arranged alphabetically by topic.
Direct evidence	Among other things, proof of facts by witnesses who saw acts done or heard words spoken.
Direct examination	The first questioning of witnesses by the party on whose behalf they are called.
Directed verdict	<u>See</u> judgment as a matter of law.
Disbarment	Form of discipline of a lawyer resulting in the loss (often permanently) of that lawyer's right to practice law. <u>See</u> censure or suspension.
Discharge	The name given to the bankruptcy court's formal discharge of a debtor's debts.
Disclaim	To refuse a gift made in a will.
Discovery	The name given pretrial devices for obtaining facts and information about the case. <u>See</u> Federal Rules of Civil Procedure (FRCP) 26-37)
Dismissal	The termination of a lawsuit either with or without prejudice.

Dissent	To disagree. An appellate court opinion setting forth the minority view and outlining the disagreement of one or more judges with the decision of the majority.
Dissolution	The termination; process of dissolving or winding up something.
Diversity of citizenship	The condition when the party on one side of a lawsuit is a citizen of one state and the other party is a citizen of another state; such cases may be under the jurisdiction of federal courts.
Diversion	The process of removing some minor criminal, traffic or juvenile cases from the full judicial process, on the condition that the accused undergo some sort of rehabilitation or make restitution for damages.
Docket	An abstract or listing of all pleadings or the documents filed in a case; the book containing such entries; "trial docket" is a list or calendar of cases to be tried in a certain term.
Docket control	A system for keeping track of deadlines and court dates for both litigation and non-litigation matters.
Domicile	The place where a person has a permanent home to which he/she intends to return.
Double jeopardy	Putting a person on trial more than once for the same crime. It is forbidden by the Fifth Amendment to the United States Constitution.
Due process of law	The right of all persons to receive the guarantees and safeguards of the law and the judicial process. It includes such constitutional requirements as adequate notice, assistance of counsel and the rights to remain silent, to a speedy and public trial, to an impartial jury and to confront and secure witnesses.

## E

Eminent Domain	The power of the government to take private property for public use through condemnation.
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En Banc	All the judges of a court sitting together. Appellate courts can consist of a dozen or more judges, but often they hear cases in panels of three judges. If a case is heard or reheard by the full court, it is heard "en banc."
Encyclopedia	A book or series of books arranged alphabetically by topics containing information on specific areas of law.
Enjoining	An order by the court telling a person to stop performing a specific act.
Entity	A legally recognized organization.
Entrapment	The act of inducing a person to commit a crime so that a criminal charge will be brought against him.
Environmental Protection Agency	(EPA) A federal agency created to permit coordinated and effective governmental action to preserve the quality of the environment.
Equal Protection of the Law	The guarantee in the Fourteenth Amendment to the U.S. Constitution that all persons be treated equally by the law.
Equity	Justice administered according to fairness; the spirit of fairness in dealing with other persons.
Escheat	The process by which a deceased person's property goes to the state if no heir can be found.
Escrow	Money or a written instrument such as a deed that, by agreement between two parties, is held by a neutral third party (held in escrow) until all conditions of the agreement are met.
Esquire	In the United States the title commonly appended after the name of an attorney. Abbreviated: Esq.
Estate	A person's property.
Estate tax	Generally, a tax on the privilege of transferring property to others after a person's death. In addition to federal estate taxes, many states have their own estate taxes.

Estoppel	An impediment that prevents a person from asserting or doing something contrary to his own previous assertion or act.
Ethics	Of or relating to moral action and conduct; professionally right; conforming to professional standards.
Evidence	Information presented in testimony or in documents that is used to persuade the fact finder (judge or jury) to decide the case for one side or the other.
Exceptions	Declarations by either side in a civil or criminal case reserving the right to appeal a judge's ruling on a motion. Also, in regulatory cases, objections by either side to points made by the other side or to rulings by the agency or one of its hearing officers.
Exclusionary Rule	The rule preventing illegally obtained evidence from being used in any trial.
Execute	To complete; to sign; to carry out according to its terms.
Executor	A personal representative, named in a will, who administers an estate.
Exempt property	All the property of a debtor which is not attachable under the Bankruptcy Code or the state statute.
Exhibit	A document or other item introduced as evidence during a trial or hearing.
Exonerate	Removal of a charge, responsibility or duty.
Ex parte	On behalf of only one party, without notice to any other party. For example, a request for a search warrant is an ex parte proceeding, since the person subject to the search is not notified of the proceeding and is not present at the hearing.
Ex parte proceeding	Actions taken by or orders made by a court upon the application or petition of one party without notice or hearing to other interested parties.

Extenuating circumstances	Circumstances which render a crime less aggravated, heinous or reprehensible than it would be otherwise.
Expungement	The process by which a record is destroyed or sealed.
Extradition	The surrender of an accused criminal by one state to the jurisdiction of another.

## F

Fair market value	The value for which a reasonable seller would sell an item of property and for which a reasonable buyer would buy it.
Family law	Those areas of the law pertaining to families, <u>i.e.</u> , marriage, divorce, child custody, juvenile, paternity, etc.
Federal Aviation Administration	(FAA) A federal agency which regulates air commerce to promote aviation safety.
Federal Bureau of Investigation	(FBI) A federal agency which investigates all violations of federal laws.
Federal Communications Commission	(FCC) A federal agency which regulates interstate and foreign communications by wire and radio.
Federal Deposit Insurance Corporation	(FDIC) A federal agency which insures deposits in banking institutions in the event of financial failure.
Federal Mediation and Conciliation Service	A federal agency which provides mediators to assist in labor-management disputes.
Federal Register	A daily publication which contains federal administrative rules and regulations.

Federal Reporters	("F.," "F.2d" or "F.3d") Books which contain decisions of the Circuit Courts throughout the country.
Federal Supplement	("F. Supp.") Books which contain decisions of the District Courts throughout the country.
Federal Unemployment Tax	(FUTA tax) A tax levied on employers based upon employee wages paid.
Felony	A serious criminal offense. Under federal law, any offense punishable by death or imprisonment for a term exceeding one year.
Fiduciary	A person or institution who manages money or property for another and who must exercise a standard of care imposed by law, <u>i.e.</u> , personal representative or executor of an estate, a trustee, etc.
File	To place a paper in the official custody of the clerk of court/court administrator to enter into the files or records of a case.
Filing Fee	The fee required for filing various documents. In civil actions, the filing fee is \$120.00. Applications for a writ of habeas corpus require a filing fee of \$5.00.
Finding	Formal conclusion by a judge or regulatory agency on issues of fact. Also, a conclusion by a jury regarding a fact.
Food and Drug Administration	(FDA) A federal agency which sets safety and quality standards for food, drugs, cosmetics and household substances.
Foreclosure	A court proceeding upon default in a mortgage to vest title in the mortgagee.
Forfeiture	A cancellation. A legal action whereby a person loses all interest in the property.
Fraud	A false representation of a matter of fact which is intended to deceive another.

## G

Garnishment	A legal proceeding in which a debtor's money, in the possession of another (called the garnishee) is applied to the debts of the debtor, such as when an employer garnishes a debtor's wages.
General Jurisdiction	Refers to courts that have no limit on the types of criminal and civil cases over which they may preside.
Good time	A reduction in sentenced time in prison as a reward for good behavior. It usually is one third to one half of the maximum sentence.
Government Printing Office	(GPO) The federal agency in charge of printing, binding and selling of all government publications.
Grand Jury	A jury of inquiry whose duty it is to receive complaints and accusations in criminal matters and, if appropriate, issue a formal indictment.
Grantor	The person who sets up a trust. Also referred to as "settlor."
Grievance	1. An injury, injustice or wrong which gives ground for complaint. 2. In labor law, a complaint filed by an employee regarding working conditions to be resolved by procedural machinery provided in the union contract.
Guardian	A person appointed by law to assume responsibility for incompetent adults or minor children.
Guardianship	Legal right given to a person to be responsible for the food, housing, health care and other necessities of a person deemed incapable of providing these necessities for himself or herself.

## H

Habeas corpus	The name of a writ having for its object to bring a person before a court.
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Harmless error	An error committed during a trial that was corrected or was not serious enough to affect the outcome of a trial and therefore was not sufficiently harmful (prejudicial) to be reversed on appeal.
Headnote	A brief summary of a legal rule or significant facts in a case, which, along with other headnotes, precedes the printed opinion in reports.
Hearing	A formal proceeding (generally less formal than a trial) with issues of law or of fact to be heard. Hearings are used extensively by legislative and administrative agencies.
Hearsay	Statements by a witness who did not see or hear the incident in question but heard about it from someone else. Hearsay may not be admissible.
Hostile witness	A witness whose testimony is not favorable to the party who calls the person as a witness. A hostile witness may be asked leading questions and may be cross-examined by the party who calls him or her to the stand.
Hung jury	A jury whose members cannot agree upon a verdict.
Immigrants	Persons who come into a foreign country or region to live.
Immigration	The entry of foreign persons into a country to live permanently.
Immigration and Naturalization Service	(INS) A federal agency which regulates immigration and naturalization of aliens.
Immunity	A grant that assures someone that he/she will not face prosecution in return for providing evidence against another.
Impeachment	A criminal proceeding against a public official.
Impeachment of a witness	An attack on the credibility (believability) of a witness, through evidence introduced for that purpose.

Implied contract	A contract not created or evidenced by the explicit agreement of the parties but one inferred by law.
In forma pauperis	As a poor person; a pauper.
Inadmissible	That which, under the rules of evidence, cannot be admitted or received as evidence.
Incapacity	Lack of legal ability to act; disability, incompetence; lack of adequate power.
Incarceration	Imprisonment in a jail, prison or penitentiary.
Incompetent	One who lacks ability, legal qualification or fitness to manage his/her own affairs.
Indeterminate sentence	A sentence of imprisonment to a specified minimum and maximum period of time, specifically authorized by statute, subject to termination by a parole board or other authorized agency after the prisoner has served the minimum term.
Indictment	A written accusation by a grand jury charging a person with a felony. <u>See</u> information.
Indigent	Needy or impoverished.
Initial appearance	The defendant comes before a judge within hours of the arrest to determine whether or not there is probable cause for his or her arrest.
Information	Accusatory document, filed by a prosecutor, detailing misdemeanor charges against a party.
Infraction	A violation of law not punishable by imprisonment. Minor traffic offenses generally are considered infractions.
Inheritance tax	A tax on property that an heir or beneficiary under a will receives from a deceased person's estate. The heir or beneficiary pays this tax.
Injunction	An order or remedy issued by the court at the request of the complaining party, which forbids another party to do some act which he/she is threatening or attempting to do. Conversely, it may require a person to perform an act which he/she is obligated to perform but refuses to do.

Insolvent	When the total debt of an entity is greater than all of its property.
Instructions	Judge's explanation to the jury before it begins deliberations of the questions it must answer and the applicable law governing the case. (Also referred to as "charge.")
Intentional tort	Wrong perpetrated by one who intends to break the law.
Interlocutory	Temporary; provisional; interim; not final.
Internal Revenue Service	(IRS) The federal agency which administers the tax laws of the United States.
Interrogatories	A set or series of written questions propounded to a party, witness or other person having information or interest in a case; a discovery device.
Interstate Commerce Commission	(ICC) A federal agency which regulates all transportation in interstate commerce.
Intervention	An action by which a third person who may be affected by a lawsuit is permitted to become a party to the suit.
Involuntary bankruptcy	A proceeding initiated by creditors requesting the bankruptcy court to place a debtor in liquidation.
Issue	1. The disputed point in a disagreement between parties in a lawsuit. 2. To send out officially, as in to issue an order.

## J

Joint and several liability	A legal doctrine that makes each of the parties who are responsible for an injury, liable for all the damages awarded in a lawsuit if the other parties responsible cannot pay.
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Joint tenancy	A form of legal co-ownership of property (also known as survivorship). At the death of one co-owner, the surviving co-owner becomes sole owner of the property. Tenancy by the entirety is a special form of joint tenancy between a husband and wife.
Judge	A presiding officer of the court.
Judgment	The official and authentic decision of a court of justice upon the rights and claims of parties to an action submitted to the court for determination. <u>See</u> summary judgment.
Judgment as a matter of law	In a case in which the plaintiff has failed to present on the facts of his case proper evidence for jury consideration, the trial judge may order the entry of a verdict without allowing the jury to consider it.
Judgment debtor	One who owes money as a result of a judgment in favor of a creditor.
Judicial lien	A lien obtained by judgment or other judicial process against a debtor.
Judicial review	The authority of a court to review the official actions of other branches of government. Also, the authority to declare unconstitutional the actions of other branches.
Judiciary	The branch of government invested with judicial power to interpret and apply the law; the court system; the body of judges.
Jurat	Certificate of person and officer before whom a writing is sworn to.
Jurisdiction, Personal	The power or authority of a court to hear and try a case with respect to an individual.
Jurisdiction, Subject Matter	The power or authority of a court to hear and try a case.
Jurisprudence	The study of law and the structure of the legal system.

Jury	A certain number of men and women selected according to law and sworn to try a question of fact or indict a person for public offense.
Jury Administrator	The court officer responsible for choosing the panel of persons to serve as potential jurors for a particular court term.
Justiciable	Issues and claims capable of being properly examined in court.

## K

Key number system	A research aid developed by West Publishing Company which classifies digests of cases into various law topics and subtopics which are given paragraph numbers called "Key Numbers." Each key number for a given topic helps the researcher quickly find all references to the legal matter being researched.
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## L

Lapsed gift	A gift made in a will to a person who has died prior to the will-maker's death.
Larceny	Obtaining property by fraud or deceit.
Law	The combination of those rules and principles of conduct promulgated by legislative authority, derived from court decisions and established by local custom.
Law Blank	A printed legal form available for preparing documents.
Law Clerk	A lawyer (or law school student) employed to do legal research.
Lawsuit	An action or proceeding in a civil court; term used for a suit or action between two parties in a court of law.
Leading question	A question that suggests the answer desired of the witness. A party generally may not ask one's own witness leading questions. Leading questions may be asked only of hostile witnesses and on cross-examination.

Legal aid	Professional legal services available to persons or organizations unable to afford such services.
Legal process	A formal paper that is legally valid; something issuing from the court, usually a command such as a writ or mandate.
Legal texts	Books that cover specific areas of the law, usually dealing with a single topic.
Legislation	The act of giving or enacting laws; the power to make laws via legislation in contrast to court-made laws.
Legitimate	That which is legal, lawful, recognized by law or according to law.
Leniency	Recommendation for a sentence less than the maximum allowed.
Liable	Legally responsible.
Libel	Published defamation which tends to injure a person's reputation.
Licensing boards	State agencies created to regulate the issuance of licenses, <u>i.e.</u> , to contractors, cosmetologists, realtors, etc.
Lien	An encumbrance or legal burden upon property.
Limine	<u>See</u> "in limine" in Foreign Words Glossary.
Limited Jurisdiction	Refers to courts that are limited in the types of criminal and civil cases they may hear. For example, federal courts are courts of limited jurisdiction courts.
Litigant	A party to a lawsuit.
Litigation	A lawsuit; a legal action, including all proceedings therein.
Living trust	A trust set up and in effect during the lifetime of the grantor. (Also called inter vivos trust.)
Loose-leaf services	Loose-leaf replacement pages provided by a publisher in areas of the law where changes occur at a rapid rate.

## M

Magistrate	<u>See</u> U.S. Magistrate Judge.
Malfeasance	The commission of an unlawful act.
Malicious prosecution	An action instituted with intention of injuring the defendant and without probable cause and which terminates in favor of the person prosecuted.
Malpractice	Any professional misconduct.
Marshal	In federal court, the individual that serves process on behalf of an indigent party to an action.
Martindale-Hubbell Law Directory	A publication consisting of several volumes which contains names, addresses, specialties and rating of United States lawyers; also includes digests of state and foreign statutory law.
Mediation	A form of alternative dispute resolution in which the parties bring their dispute to a neutral third party, who helps them agree on a settlement.
Memorandum of law	A legal brief in support of the position taken by a party in an action.
Merger	The absorption of one thing or right into another.
Minor	A person under the age of legal competence.
Minute book	A book maintained in state court that contains minute entries of all hearings and trial conducted by the judge.
Minutes	Memorandum of a transaction or proceeding.
Miranda warning	Requirement that police tell a suspect in their custody of his or her constitutional rights before they question him or her. So named as a result of the <u>Miranda v. Arizona</u> ruling by the United States Supreme Court.

Misdemeanor	A criminal offense lesser than a felony and generally punishable by fine or by imprisonment of less than 1 year.
Misfeasance	Improper performance of an act which a person might lawfully do.
Mistrial	An invalid trial, caused by fundamental error. When a mistrial is declared, the trial must start again from the selection of the jury.
Mitigating circumstances	Those which do not constitute a justification or excuse for an offense but which may be considered as reasons for reducing the degree of blame.
Mitigation	A reduction, abatement or diminution imposed by law.
Moot	A moot case or a moot point is one not subject to a judicial determination because it involves an abstract question or a controversy that has not yet actually arisen or has already passed. Mootness usually refers to a court's refusal to consider a case because the issue involved has been resolved prior to the court's decision, leaving nothing that would be affected by the court's decision.
Motion	An application made to a court or judge by a party which requests a ruling or order in favor of the applicant or "movant."
Motion in Limine	A motion made prior to trial by counsel or the pro se litigant requesting that information which might be prejudicial not be allowed in a case.
Mutual assent	A meeting of the minds; agreement.

## N

National Labor Relations Board	(NLRB) A federal agency which remedies unfair labor practices by employers and labor organizations.
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Naturalization	Process by which a person acquires nationality after birth and becomes entitled to privileges of citizenship in a country other than that in which such person was born.
Negligence	Failure to use care which a reasonable and prudent person would use under similar circumstances.
No Bill	This phrase, endorsed by a grand jury on the written indictment submitted to it for its approval, means that the evidence was found insufficient to indict.
No-contest Clause	Language in a will that provides that a person who makes a legal challenge to the will's validity will be disinherited.
No-fault Proceedings	A civil case in which parties may resolve their dispute without a formal finding of error or fault.
Noise Control Act	A act which gives government agencies the right to promulgate standards and regulations relating to abatement of noise emissions, <i>i.e.</i> , requirement that automobiles and like vehicles must have mufflers.
Nonfeasance	Nonperformance of an act which should be performed; omission to perform a required duty or total neglect of duty.
Non-jury trial	Trial before the court but without a jury. In a non-jury trial, the court is the finder of both the law and the facts.
Notary Public	A public officer whose function it is to administer oaths, to attest and certify documents and to take acknowledgments.
Notice	A form of notification given by a court or a party to a legal proceeding.
Notice to creditors	A notice given by the bankruptcy court to all creditors of a meeting of creditors.
Nuncupative will	An oral (unwritten) will.

## O

Oath	A solemn pledge in attestation of the truth of a statement or in verification of a statement made.
Objection	The process by which one party takes exception to some statement or procedure. An objection is either sustained (allowed) or overruled by the judge.
Occupational Safety and Health Act	(OSHA) A federal law designed to develop and promote occupational safety and health standards.
Official reports	The publication of cumulated court decisions of state or federal courts in advance sheets and bound volumes as provided by statutory authority.
On a person's own recognizance	Release of a person from custody without the payment of any bail or posting of bond, upon the promise of the party to return to court.
Opening statement	The initial statement made by attorneys or pro se litigant for each side, outlining the facts each intends to establish during the trial.
Opinion	A judge's written explanation of a decision of the court or of a majority of judges. A dissenting opinion disagrees with the majority opinion because of the reasoning and/or the principles of law on which the decision is based. A concurring opinion agrees with the decision of the court but offers further comment. (A per curiam opinion is an unsigned opinion "of the court.")
Oral argument	Presentation of an aspect of a case before a court by spoken argument; for example, at a motion calendar.
Order	1. Direction of a court or judge made in writing. 2. A mandate, command, or direction authoritatively given.
Ordinance	A rule established by authority; may be a municipal statute of a city council, regulating such matters as zoning, building, safety, matters of municipality, etc.

Overrule	A judge's decision not to allow an objection. Also, a decision by a higher court finding that a lower court decision was in error.
<b>P</b>	
Paper bound supplement	A temporary supplement to a book or books.
Paralegal	1. A person with legal skills who works under the supervision of a lawyer. 2. A legal assistant.
Pardon	An act of grace from governing power which mitigates punishment and restores rights and privileges forfeited on account of the offense.
Parol evidence	Oral or verbal evidence; evidence given by word of mouth in court.
Parole	Supervised release of a prisoner from imprisonment on certain prescribed conditions which entitle him to relief from a prison sentence.
Party	A person, business, or government agency actively involved in the prosecution or defense of a legal proceeding.
Patent	A grant to an inventor of the right to exclude others, for a limited time, from making, using, or selling his invention in the United States.
Patent and Trademark Office	(PTO) The federal agency which examines and issues patents and registers trademarks.
Peremptory challenge	Request by a party that a judge not allow a certain prospective juror as a member of the jury. No reason or cause need be stated. <u>See</u> challenge for cause.
Periodical	A publication which appears regularly but less often than daily.

Perjury	The criminal offense of making a false statement under oath.
Permanent injunction	A court order requiring that some action be taken, or that some party refrain from taking action on a permanent basis. It differs from forms of temporary relief, such as a temporary restraining order or preliminary injunction.
Per se doctrine	Under this doctrine, an activity such as price fixing can be declared as a violation of the antitrust laws without necessity of a court inquiring into the reasonableness of the activity.
Personal property	Anything a person owns other than real estate.
Personal recognizance	In criminal proceedings, the pretrial release of a defendant without bail upon his or her promise to return to court. <u>See</u> recognizance.
Personal representative	The person who administers an estate. If named in a will, that person's title is an executor. If there is no valid will, that person's title is an administrator.
Person in need of supervision	(PINS) Juvenile found to have committed a "status offense" rather than a crime that would provide a basis for a finding of delinquency.
Petitioner	The person filing a certain type of action in a court of original jurisdiction. Also, the person who appeals the judgment of a lower court. <u>See</u> respondent.
Plaintiff	A person who brings an action; the party who complains or sues in a civil action. <u>See</u> complainant.
Plea	The first pleading by a criminal defendant, the defendant's declaration in open court that he or she is guilty or not guilty. The defendant's answer to the charges made in the indictment or information.

Plea bargaining	Process where the accused and the prosecutor in a criminal case work out a satisfactory disposition of the case, usually by the accused agreeing to plead guilty to a lesser offense. Such bargains are not binding on the court. Also referred to as plea negotiating.
Pleadings	The written statements of fact and law filed by the parties to a lawsuit.
Pocket part	Supplements to law books in pamphlet form which are inserted in a pocket inside the back cover of the books to keep them current.
Polling the jury	The act, after a jury verdict has been announced, of asking jurors individually whether they agree with the verdict.
Post-trial	Refers to items happening after the trial, <u>i.e.</u> , post-trial motions.
Pour-Over will	A will that leaves some or all estate assets to a trust established before the will-maker's death.
Power	Authority to do. One has the power to do something if he is of legal age. Also, used as "powers," the term refers to authority granted by one person to another, <u>i.e.</u> , powers given an executor in a will or an agent in a power of attorney.
Power of attorney	A formal instrument authorizing another to act as one's agent or attorney.
Precedent	Laws established by previous cases which must be followed in actions involving identical circumstances. <u>See</u> stare decisis in Foreign Words Glossary.
Preliminary injunction	Court order requiring action or forbidding action until a decision can be made whether to issue a permanent injunction. It differs from a temporary restraining order.

Preliminary hearing	Also, preliminary examination. A hearing by a judge to determine whether a person charged with a crime should be held for trial. <u>See</u> arraignment.
Preponderance of the evidence	Greater weight of the evidence, the common standard of proof in civil cases.
Presentence report	A report to the sentencing judge containing background information about the crime and the defendant to assist the judge in making his or her sentencing decision.
Presentment	Declaration or document issued by a grand jury that either makes a neutral report or notes misdeeds by officials charged with specified public duties. It ordinarily does not include a formal charge of crime. A presentment differs from an indictment.
Pretermitted child	A child born after a will is executed, who is not provided for by the will. Most states have laws that provide for a share of estate property to go to such children.
Pretrial conference	Conference among the opposing attorneys (or pro se parties) and the judge called at the discretion of the court to narrow the issues to be tried and to make efforts to settle the case without a trial.
Prima facie case	A case that is sufficient and has the minimum amount of evidence necessary to allow it to continue in the judicial process. <u>See</u> prima facie in the Foreign Words Glossary.
Primary authority	Constitutions, codes, statutes, ordinances, and case law sources.
Privilege	A benefit or advantage to certain persons beyond the advantages of other persons, <u>i.e.</u> , an exemption, immunity, power, etc.
Pro se	For oneself; on one's own behalf.
Probable cause	1. The basis for all lawful searches, seizures and arrests. 2. A reasonable belief that a crime has or is being committed.

Probate	Court proceeding by which a will is proved valid or invalid. Term used to mean all proceedings pertaining to the administration of estates such as the process by which assets are gathered; applied to pay debts, taxes, and expenses of administration; and distributed to those designated as beneficiaries in the will. Conducted in courts.
Probate court	The court with authority to supervise estate administration.
Probate estate	Estate property that may be disposed of by a will. <u>See</u> estate.
Probation	An alternative to imprisonment allowing a person found guilty of an offense to stay in the community, usually under conditions and under the supervision of a probation officer. A violation of probation can lead to its revocation and to imprisonment.
Product liability	Legal responsibility of manufacturers and sellers to buyers, users, and bystanders for damages or injuries suffered because of defects in goods.
Promisee	An individual to whom a promise is made.
Promisor	An individual who makes a promise.
Promissory estoppel	A promise which estops or legally prevents the promisee from asserting or taking certain action.
Property tax	A tax levied on land and buildings (real estate) and on personal property.
Proprietor	Owner; person who has legal right or title to anything.
Prosecutor	A lawyer representing the government in a criminal case and the interests of the state in civil matters. In criminal cases, the prosecutor has the responsibility of deciding who and when to prosecute.
Proximate cause	The last negligent act which contributes to an injury. A person generally is liable only if an injury was proximately caused by his or her action or by his or her failure to act when he or she had a duty to act.

Proxy	The instrument authorizing one person to represent, act, and vote for another at a shareholders' meeting of a corporation.
Public law	That law such as traffic ordinances or zoning ordinances which applies to the public.
Public defender	Government lawyer who provides free legal defense services to a poor person accused of a crime.
Public Service Commission	Also, Public Utilities Commission. A state agency which regulates utilities.
Punitive damages	Money award given to punish the defendant or wrongdoer.
Purchase agreement/ purchase offer	Also, sales agreement. Agreement between buyer and seller of property which sets forth the price and terms of a proposed sale.
Putative	Alleged; supposed; reputed.

## Q

Quash	To vacate or void a summons, subpoena, etc.
Quasi-contract	An obligation created by the law in the absence of an agreement or contract; not based upon the intentions or expressions of the parties.
Quasi-criminal action	A classification of actions such as violation of a city ordinance that is not also violation of a criminal statute, which are wrongs against the public punishable through fines but are not usually indictable offenses.
Quiet title action	A court proceeding to remove a cloud on the title to real property.
Quitclaim deed	A deed without warranty of title which passes whatever title the grantor has to another.

## R

Real property	Land, buildings, and whatever is attached or affixed to the land. Generally synonymous with the words "real estate."
Reasonable doubt	A person accused of a crime is entitled to acquittal if, in the minds of the jury, his or her guilt has not been proved beyond a "reasonable doubt;" i.e., when jurors cannot say they feel an abiding conviction as to the truth of the charge.
Reasonable person	A phrase used to denote a hypothetical person who exercises qualities of attention, knowledge; intelligence, and judgment that society requires of its members for the protection of their own interest and the interests of others. Thus, the test of negligence is based on either a failure to do something that a reasonable person, guided by considerations that ordinarily regulate conduct, would do, or on the doing of something that a reasonable and prudent (wise) person would not do.
Rebut	Evidence disproving other evidence previously given or reestablishing the credibility of challenged evidence. <u>See</u> rejoinder.
Recognizance	An obligation entered into before a court whereby the recognizer acknowledges that he will do a specific act required by law.
Record	All the documents and evidence plus transcripts of oral proceedings in a case.
Recuse	The process by which a judge is disqualified from hearing a case, on his or her own motion or upon the objection of either party.
Re-direct examination	Opportunity to present rebuttal evidence after one's witness has been subjected to cross-examination.
Redress	To set right; to remedy; to compensate; to remove the causes of a grievance.
Referee	A person to whom the court refers a pending case to take testimony, hear the parties, and report back to the court. A referee is an officer with judicial powers who serves as an arm of the court.

Rehearing	Another hearing of a civil or criminal case by the same court in which the case was originally heard.
Registered mark	Trademark with the words "Registered in the U.S. Patent and Trademark Office" or the letter "R" enclosed within a circle.
Rejoinder	Opportunity for the plaintiff/petitioner to offer limited response to evidence presented by the defendant/respondent. <u>See</u> rebut.
Remand	To send a dispute back to the court where it was originally heard. Usually it is an appellate court that remands a case for proceedings in the trial court consistent with the appellate court's ruling.
Remedy	Legal or judicial means by which a right or privilege is enforced or the violation of a right or privilege is prevented, redressed, or compensated.
Remittitur	The reduction by a judge of the damages awarded by a jury.
Removal	The transfer of a state case to federal court.
Replacement volumes	Volumes which replace books and their pocket parts when the pocket parts cause the books to become too bulky.
Replevin	An action for the recovery of a possession that has been wrongfully taken.
Reply	The response by a party to charges raised in a pleading by the other party.
Reporters	Books which contain court decisions.
Request for admission	Also, Request to Admit. Written statements of facts concerning a case which are submitted to an adverse party and which that party must admit or deny; a discovery device.

Request for production of documents	A direction or command served upon another party for production of specified documents for review with respect to a suit; a discovery device.
Request to admit	<u>See</u> Request for Admission.
Rescission	The undoing of a contract; repeal.
Research	A careful hunting for facts, truth and/or the law about a subject.
Respondent	1. The person that must respond to allegations contained in a petition. 2. The person against whom an appeal is taken. <u>See</u> petitioner.
Rest	A party is said to "rest" or "rest its case" when it has presented all the evidence it intends to offer.
Restatement	A publication which tells what the law is in a particular field, as compiled from statutes and decisions.
Restitution	Act of restoring anything to its rightful owner; the act of restoring someone to an economic position he enjoyed before he suffered a loss.
Retainer	Act of the client in employing the attorney or counsel, and also denotes the fee which the client pays when he or she retains the attorney to act for them.
Return	A report to a judge by police on the implementation of an arrest or search warrant. Also, a report to a judge in reply to a subpoena, civil or criminal.
Reverse	An action of a higher court in setting aside or revoking a lower court decision.
Reversible error	A procedural error during a trial or hearing sufficiently harmful to justify reversing the judgment of a lower court.
Revocable trust	A trust that the grantor may change or revoke.
Revoke	To cancel or nullify something.

Right of way	The right of a party to pass over the land of another.
Robinson-Patman Act	An amendment to the Clayton Act which deals with price discrimination.
Robbery	Felonious taking of another's property, from his or her person or immediate presence and against his or her will, by means of force or fear. <u>See</u> larceny.
Rules	Established standards, guides, or regulations set up by authority that must be followed by parties to an action.
Rules of evidence	Standards governing whether evidence in a civil or criminal case is admissible.

## S

Search warrant	A written order issued by a judge that directs a law enforcement officer to search a specific area for a particular piece of evidence.
Seal	To mark a document with a seal; to authenticate or make binding by affixing a seal. Court seal, corporate seal.
Secondary authority	Legal encyclopedias, treatises, legal texts, law review articles, and citators. Writings which set forth the opinion of the writer as to the law.
Secured debts	In bankruptcy, a debt is secured if the debtor gave the creditor a right to repossess the property or goods used as collateral.
Securities and Exchange Commission	(SEC) A federal agency which monitors the securities industry.
Self-defense	The claim that an act otherwise criminal was legally justifiable because it was necessary to protect a person or property from the threat or action of another.

Self-incrimination, privilege against:	The constitutional right of people to refuse to give testimony against themselves that could subject them to criminal prosecution. The right is guaranteed in the Fifth Amendment to the United States Constitution. Asserting the right is often referred to as "taking the Fifth."
Self-proving will	A will whose validity does not have to be testified to in court by the witnesses to it, since the witnesses executed an affidavit reflecting proper execution of the will prior to the maker's death.
Sentence	The punishment ordered by a court for a defendant convicted of a crime. <u>See</u> concurrent and consecutive sentences.
Sentence Report	<u>See</u> Presentence Report.
Sequester	To separate. Sometimes juries are separated from outside influences during their deliberations. For example, this may occur during a highly publicized trial.
Sequestration of witnesses	Keeping all witnesses (except plaintiff and defendant) out of the courtroom except for their time on the stand, and cautioning them not to discuss their testimony with other witnesses. Also referred to as "separation of witnesses."
Service of process	The delivering of writs, summonses, subpoenas or other documents by delivering them to the party named in the document. Also referred to as "service."
Settlement	An agreement between the parties disposing of a lawsuit.
Settlor	The person who sets up a trust. Also referred to as "grantor."
Shepardizing	Method for finding subsequent development of a legal theory by tracing status of a case as legal authority.
Sheriff	The executive officer of local court in some areas. In other jurisdictions the sheriff is the chief law enforcement officer of a county.

Sherman Act	The basic antitrust statute prohibiting any unreasonable interference, conspiracy, restraint of trade, or monopolies with respect to interstate commerce.
Sidebar	A conference between the judge and lawyers or pro se litigant, usually held in the courtroom, but neither the jury nor other people in the courtroom may hear the conversation.
Slander	Spoken defamation which tends to injure a person's reputation. <u>See</u> libel.
Small Business Administration	(SBA) A federal agency which provides assistance of all kinds, including loans, to small businesses.
Small Claims Court	A state court that handles civil claims for small amounts of money. People often represent themselves rather than hire an attorney.
Social Security	A system of federal old-age pensions for employed persons begun in 1935. A portion of the payment is deducted from the employee's salary and an equal portion is contributed by the employer.
Social Security Administration	(SSA) The federal agency which administers the national social security program.
Social Security Tax	A payroll deduction based on gross wages paid; this amount is matched by the employer as required by the Federal Insurance Contribution Act (FICA).
Sovereign Immunity	The doctrine that the government, state or federal, is immune to lawsuit unless it gives consent to the suit through statute.
Specific performance	A remedy requiring a person who has breached a contract to perform specifically what he or she has agreed to do. Specific performance is ordered when damages would be inadequate compensation.
Speedy Trial Act	Federal law establishing time limits for carrying out major events, <u>i.e.</u> indictment, arraignment, etc., in a criminal prosecution.

Spendthrift trust	A trust set up for the benefit of someone whom the grantor believes would be incapable of managing his or her own financial affairs.
Standard of proof	Indicates the degree to which an aspect of a case must be proven. In a civil case, the burden of proof rests with the plaintiff, who must establish his or her case by such standards of proof as a "preponderance of evidence" or "clear and convincing evidence." <u>See</u> burden of proof.
Standing	The legal right to bring a lawsuit. Only a person with something at stake has standing to bring a lawsuit.
Statute	Legislative enactment; it may be a single act of a legislature or a body of acts which are collected and arranged for a session of a legislature. <u>See</u> statutory law.
Statute of frauds	A statutory requirement that certain contracts must be in writing.
Statute of limitations	A statute which limits the right of a plaintiff to file an action unless it is done within a specified time period after the occurrence which gives rise to the right to sue.
Statutory	Relating to a statute; created or defined by a law.
Statutory construction	Process by which a court seeks to interpret the meaning and scope of legislation.
Statutory law	Laws promulgated by Congress and state legislatures. <u>See</u> case law and common law.
Statutory research	Research of legislation enacted by a state or the United States.
Stay	A court order halting an event.
Stipulation	An agreement between the parties involved in a lawsuit regulating one or more aspects relating to that lawsuit.

Strict liability	Concept applied by the courts in product liability cases that when a manufacturer presents his goods for public sale, it is representing that they are suitable for their intended use.
Strike	Pleadings, evidence or other matters in a case that have been improperly presented to the court and will not be allowed to remain as part of the case.
Subpoena	A command to appear at a certain time and place to give testimony upon a certain matter.
Subpoena Duces Tecum	A court order commanding a witness to bring certain documents or records to court.
Substantive law	The statutory or written law that governs rights and obligations of those who are subject to it.
Summary judgment	A pre-trial judgment given on the basis of pleadings, affidavits, and exhibits presented for the record by way of a motion. It is used when there is no genuine issue of material fact and one party is entitled to a judgment as a matter of law. <u>See</u> FRCP 56.
Summons	Instrument used to commence a civil action or special proceeding; the means of acquiring jurisdiction over a party.
Support trust	A trust that instructs the trustee to spend only as much income and principal (the assets held in the trust) as needed for the beneficiary's support.
Suppress	To forbid the use of evidence at a trial because it is improper or was improperly obtained. <u>See</u> exclusionary rule.
Surety Bond	A bond purchased at the expense of the estate to insure the executor's proper performance. Also referred to as "fidelity bond."
Survivorship	<u>See</u> joint tenancy.
Suspension	A temporary loss of the right to practice law by an attorney. <u>See</u> disbarment or censure.
Sustain	A court ruling upholding an objection or a motion.

## T

Taxable income	The income against which tax rates are applied to compute tax paid; gross income of businesses or adjusted gross income of individuals less deductions and exemptions.
Tax Court of the United States	A judicial body which hears cases concerning federal tax laws.
Temporary relief	Any order from the court that protects an interest of a party pending further action by the court.
Temporary restraining order	An emergency remedy of brief duration issued by a court only when immediate or irreparable damages or loss might result before the opposition could take action, and where the moving party can establish irreparable harm if not for the remedy and a likelihood of success on the merits of his/her underlying claim.
Tender of performance	An offer or attempt to do what is required under a contract or under the law.
Testamentary capacity	The legal ability to make a will.
Testamentary trust	A trust set up by a will.
Testator	Person who makes a will (Female: testatrix).
Testimony	The evidence given by a witness under oath. It does not include evidence from documents and other physical evidence.
Third party complaint	A pleading filed by a defendant against a third party (not presently a party to the suit) which alleges that the third party is liable for all or part of the damages plaintiff may obtain from defendant.
Title	Legal ownership of property, usually real property or automobiles.

Tort	A private or civil wrong or injury for which the court provides a remedy through an action for damages.
Trademark	A word, name, symbol, or devise used by a manufacturer to distinguish its goods from those sold by others.
Transcript	A written, word-for-word record of what was said during a proceeding. Usually refers to a record of a trial, hearing, or other proceeding which has been transcribed from a recording or from shorthand.
Treatise	A book or writing containing a narrative statement on a field of law.
Trial	A judicial examination of issues between parties to an action.
Trial brief	A written document prepared for the court and used at trial. It contains the issues to be tried, synopsis of evidence to be presented and case and statutory authority to substantiate the party's position at trial.
Trust	A legal device used to manage real or personal property, established by one person (grantor or settlor) for the benefit of another (beneficiary). <u>See</u> trustee.
Trust agreement or declaration	The legal document that sets up a living trust. Testamentary trusts are set up in a will.
Trustee	The person or institution that manages the property put in trust.
Truth in lending	Statutes which provide that precise and meaningful cost of credit information be provided to the credit customer.

## U

Unfair labor practice	Actions by the employer which interfere with, restrain, coerce, or threaten employees with respect to their rights as employees.
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Uniform Commercial Code	(UCC) A uniform law governing commercial transactions. The UCC has been adopted by all states except Louisiana.
Uniform Laws Annotated	Annotated uniform and model acts approved by the National Conference of Commissioners on Uniform State Laws.
Unilateral contract	An agreement by which one undertakes an express performance without receiving any express promise of performance from the other.
Union	An organization of workers formed for the purpose of collective bargaining.
United States Attorney	A federal district attorney appointed by the President to prosecute all offenses committed against the United States; to prosecute or defend the government in all civil actions in which it is concerned.
United States Bankruptcy Court	The judicial body which hears matters pertaining to bankruptcy and reorganization.
United States Court of Appeals	Courts which hear appeals from federal district courts, bankruptcy courts, and tax courts.
United States Court of Claims	Court which hears certain actions brought against the U.S. Government.
United States Court of Military Appeals	Court which hears appeals from court marshal decisions.
United States Court of Customs & Patent Appeals	Court which hears appeals from all U.S. customs courts.
United States Court of International Trade	Court which hears cases concerning federal tariff laws.

United States District Courts	Courts which hear both criminal and civil actions and admiralty cases.
United States Magistrate Judge	Judicial officer given authority by 28 U.S.C. § 636. This judicial officer hears all preliminary criminal matters, but does not conduct felony trials. A United States Magistrate Judge also presides over any pretrial civil matters referred by the district judge. If all parties consent, criminal misdemeanor and civil trials can be heard by a United States Magistrate Judge.
United States Marshals Service	Agency which serves civil and criminal process in federal courts for those people who have been found to be a pauper.
United States Postal Service	The federal office which provides mail delivery to individuals and businesses within the United States.
United States Reports	Publication of court decisions of the United States Supreme Court.
United States Supreme Court	The highest court in the land, established by U.S. Constitution.
Unsecured debts	In bankruptcy, debts such as open accounts at department stores for which the debtor has not pledged collateral to guarantee payment.
Urban	A city or town.
Usury	Extraction of interest on a loan above the maximum rate permitted by statute.

## V

Vacate	To set aside.
Venire	A writ summoning persons to court to act as jurors. <u>See</u> venire facias in Foreign Words Glossary.

Venue	Authority of a court to hear a matter based on geographical location.
Verdict	A conclusion, as to fact or law, that forms the basis for the judgment of the jury or the court. <u>See</u> Judgment as a Matter of Law.
Veterans' Administration	(VA) The federal agency which administers a system of benefits for veterans and their dependents.
Visa	An official endorsement on a document or passport denoting that the bearer may proceed.
Void	Invalid; a void agreement is one for which there is no remedy.
Voidable	Capable of being declared invalid; a voidable contract is one where a person may avoid an obligation, as a contract between an adult and a minor.
Voir dire	The preliminary examination made in court of a witness or juror to determine his/her competency or interest in a matter. Literally, to speak the truth.
Voluntary bankruptcy	A proceeding by which a debtor voluntarily asks for a discharge of his/her debts under the Bankruptcy Code.

## W

Waiver	The giving up of a right.
Waiver of immunity	A means authorized by statute by which a witness, before testifying or producing evidence, may relinquish the right to refuse to testify against himself or herself, thereby making it possible for his or her testimony to be used against him or her in future proceedings.

Warrant	Most commonly, a court order authorizing law enforcement officers to make an arrest or conduct a search. An application seeking a warrant must be accompanied by an affidavit which establishes probable cause by detailing the facts upon which the request is based.
Warranty	A promise that a proposition of fact is true.
Warranty deed	A deed which guarantees that the title conveyed is good and its transfer rightful.
Water rights	The right to use water.
Will	A legal declaration that disposes of a person's property when that person dies.
Withholding	A tax deducted from a salary, wage, or other income on behalf of the government at the time of payment of wages to the person who pays it.
With prejudice	A declaration which dismisses all rights. A judgment barring the right to bring or maintain an action on the same claim or cause.
Without prejudice	A declaration that no rights or privileges of the party concerned are waived or lost. In a dismissal, these words maintain the right to bring a subsequent suit on the same claim.
Witness	One who personally sees or perceives a thing; one who testifies as to what he has seen, heard, or otherwise observed.
Words and Phrases Legally Defined	A set of books in dictionary form which lists judicial determinations of a word or phrase.
Worker's compensation	A state agency which handles claims of workers injured on their jobs.
Writ	A judicial order directing a person to do something.
Writ of certiorari	An order issued by the Supreme Court directing the lower court to transmit records for a case for which it will hear on appeal. <u>See</u> certiorari in Foreign Words Glossary.

Writ of execution    An order of the court evidencing debt of one party to another and commanding the court officer to take property in satisfaction of the debt.

Writ of garnishment    An order of the court whereby property, money, or credits in the possession of another person may be seized and applied to pay a debtor's debt. It is used as an incident to or auxiliary of a judgment rendered in a principal action.

## **Z**

Zoning Commission    Local agencies with jurisdiction to regulate use of properties within their geographic area.

## GLOSSARY -- COMMON FOREIGN TERMS

### A

Ab initio	From the beginning.
Absence d'esprit	Absence of mind.
A contrario	Argument based on contract.
Ad curiam	Before the court; to the court.
Ad damnum	To the damage.
A datu	From the date.
Addendum	(Pl. addenda) Something added; appendix or supplement.
Ad finem	To the end; at the end.
Ad hoc	For this purpose or occasion.
Ad infinitum	To infinity.
Ad libitum	(Abbr. ad lib) At will.
Ad litem	For purpose of the suit or action.
Admortization	Amortization.
Ad rem	To the thing at hand.
Ad valorem	To the value.
Adversus	Against.
A fortiori	With greater force.
Agenda	Things to be done.
Alias	Called by another name.
Alibi	Elsewhere; in another place.
Alii	Others.
Alter ego	A counterpart.
A maximis ad minima	From the greatest to the least.

Amicus	Friend.
Amicus curiae	Friend of the court.
Animo	With intent.
Animo et facto	An intention and fact.
Anno Domini	(Abbr. A.D.) In the year of our Lord.
Ante	Before.
A fortiori	To draw inference that because a certain conclusion of fact is true, then a second conclusion must also be true.
A priori	From something previously determined.
Apropos	Pertinent to the purpose or time.
Arguendo	By arguing or reasoning; being in argument.

## B

Bona fide	In good faith.
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## C

Capita	Persons; heads.
Causa	A cause; an action, expectation; reason.
Causa mortis	In expectation of death.
Causa prima	First or original cause.
Causa proxima	Immediate cause.
Caveat	Notice of opposition; caution; warning.
Caveat actor	Let the doer beware.
Caveat emptor	Let the buyer beware.
Certiorari	A writ of review or inquiry; to be made more certain.
Cestui	The one.

Cestui que use	Person who uses.
Charta	A charter, as a deed of land.
Circa	About; concerning; in the area of.
Committitur	Entry which records a defendant's commitment.
Compos mentis	Of a sound mind; sane.
Conditio sine qua non	A necessary condition.
Condicto	A summons; an action.
Contra	Contrary to.
Contra bonos mores	Against good morals.
Contra formam statuti	Against the form of the statute.
Contra pacem	Against the peace.
Coram	Before; in the presence of.
Coram iudice	Before the jurisdiction of the court.
Coram nobis	To bring to the attention of the Court; a writ of coram nobis is used to bring factual errors to the attention of the Court and to get relief from same.
Corpus	The main body or substance of a thing; principal of an estate or a fund.
Corpus delicti	The body or substance of the offense.
Corpus juris	Comprehensive collection of the law.
Corpus juris civilis	The body of the civil law.
Coup de grace	A finishing blow or stroke.
Crimen	A crime.
Cui bono	For whose benefit.
Culpa	Fault or guilt.

### Common Foreign Terms.3

Cum	With.
Curia	Court.
Custodia legis	Custody of the law.

#### D

Damnum absque injuria	Legally noncompensable loss.
Datum	(Pl. data) An item or thing given; a date.
De bene esse	Conditionally or provisionally; for what it is worth.
De facto	In fact; an actuality.
De Jure	By law; valid in law.
De minimis non curat lex	The law does not care about mere trifles.
De novo	Anew.
Dictum	(Pl. dicta) A judicial opinion on a point of law which is not necessary for the court's decision in a particular case.
Duces Tecum	Bring with you.
Durante	Pending or during.
Durante vita	During life.

#### E

Emeritus	Retired from official active duties.
Eo ipso	By the thing itself.
E pluribus unum	One out of many; one composed of many (the motto of the United States, one government formed of many states).
Erratum	(Pl. errata) Error made in printing.
Esprit de corps	The spirit which animates a collective body, as of the army or the bar.

Esse	To be.
Et	And; also.
Et alii	(Abbr. et al.) And others.
Et sequentia	(Abbr. et seq.) And as follows.
Et uxor	(Abbr. et ux.) And wife.
Et vir	And husband.
Ex adverso	From the opposite view.
Ex cathedra	From the bench; with high authority.
Ex contractu	From a contract.
Ex curia	Out of court.
Ex dono	By gift.
Ex lege	According to the law.
Ex officio	By virtue.
Ex parte	From or of one side or party.
Ex post facto	After the act is done; after the fact.
Ex proprio motu	By his own motion.
Ex relatione	(Abbr. ex rel.) On the information of or on the relation of.

## F

Facto	In fact; in or by the law.
Fait	A fact; an act committed; a deed.
Fait Accompli	The deed is done.
Feme, femme	Woman.
Feme covert	A married woman.
Feme sole	A single woman (unmarried).
Finis	The end or conclusion.

## G

Gradus	A grade or a degree.
Gravis	Serious; of importance; something grave.

## H

Habeas Corpus	You have the body; a writ used to bring someone before the court.
Habendum	Clause in a deed which defines the extent of ownership in the thing granted; begins with the words "To have and to hold."
Hoc	With or this.

## I

Ibidem	(Abbr. Ib., ib., Ibid., or ibid.) In the same place, or case, or on the same page.
Idem	(Abbr. Id.) The very same, exactly this.
Id est	(Abbr. i.e.) That is; that is to say.
In actu	In reality.
In ambiguo	Ambiguous; in doubt.
In camera	In chambers, or in private. A hearing in camera takes place outside of the presence of the jury and the public.
In curia	In court.
In esse	In being; to be.
In extenso	In full length; verbatim.
In extremis	At point of death; in extremity.
In facto	In fact or in deed.
In finito	Perpetually; to infinity.
In forma pauperis	As a poor person; a pauper.
Infra	Beneath; below.

In futuro	In the future.
In hoc	In this regard; in this.
In initio	In the beginning.
In limine	At the beginning; the threshold.
In loco	In the proper place or location.
In loco parentis	In the place of a parent.
In medias res	Into the midst of things.
In pari delicto	Of equal fault or guilt.
In personam	Against a certain person; against the person.
In propria persona	Persons who present their own case without lawyers. <u>See</u> pro se.
In re	In the matter of.
In rem	Against the thing.
In situ	In the original situation.
Inter alia	Among other things.
Inter alios	Among other persons.
Inter vivos	Between living persons.
In toto	The whole; entirely.
Iipse	He; himself.
Iipso facto	By the act itself; or by the fact itself.
Iipso jure	By the law itself.

## J

Judicium	Judgment.
Jus civile	Civil law.
Jus commune	Common law.
Jus divinum	Divine law.

## L

Lex	Law.
Lex domicili	Law of the dominion.
Lex loci	The law or custom of a place.
Lex scripta	Law by statute.
Liber	Book; a book of records, as of deeds.
Lis pendens	A pending lawsuit.
Locus	Place or location.
Locus sigilli	(Abbr. L.S.) The place of the seal.

## M

Mala	Bad.
Mala fide	With bad faith.
Malo modo	In a bad manner.
Malo animo	With an evil intent.
Mandamus	Writ issued by a superior court to an inferior tribunal to enforce the performance of a public duty.
Memorabilia	Items to be remembered.
Mens rea	The "guilty mind" necessary to establish criminal responsibility.
Mortis causa	In expectation of death.

## N

Nee	Word used to show maiden family name of a married woman.
Nil	Nothing; of no account.
Nolle prosequi	Not willing to proceed.

Nolo contendere	I do not wish to contend; a plea entered by a defendant.
Non	Not.
Non assumpsit	A plea in defense that "he did not undertake and promise."
Non compos mentis	Not of sound mind; mentally incompetent.
Non sequitur	It does not follow.
Nota	Note; take notice.
Nota bene	(Abbr. NB) Note well.
Nulla bona	Return made upon execution by the sheriff or court officer when he/she has found no leviable goods.
Nunc pro tunc	Now for then; acts allowed with retroactive effect.

**O**

Obiter dictum	A thing said by the way, as language unnecessary to a decision or ruling on an issue not raised.
Oblatio	Tender of payment.
Onus Probandi	The burden of proving.
Opere citato	(Abbr. op. cit.) In the work quoted.

**P**

Parens patriae	Power of guardianship over persons under disability. The doctrine under which the court protects the interests of a juvenile.
Pendens	Pending.
Pendente lite	Pending the litigation; while the suit continues.
Per annum	Annually; by the year.
Per capita	By the head; for each individual; equally shared.
Per contra	On the contrary.

Per curiam	By the court; by the court as a whole.
Per diem	By the day.
Per se	Considered by itself; taken alone.
Persona	A person.
Per stirpes	By representation; use to designate the manner of rights of descendants where children of a deceased descendant will take the share which their parent would have taken if living.
Per viam	By way of.
Pro bono publico	For the public good. Lawyers representing clients without a fee are said to be working pro bono publico.
Pro rata	Proportionate share; distribution in proportion.
Pro se	For oneself; on one's own behalf.
Post	After; later.
Post factum	After the fact; after the event.
Post hoc	After this.
Praecipe	A writ commanding a person to do some act or to appear and show cause why he should not do so; an order.
Prima facie	On the face of it; at first view.
Pro confesso	As if conceded.
Pro forma	For the sake of form.
Pro nunc	For now.

## Q

Quantum	(Pl. quanta) Quantity or amount.
Quantum meruit	As much as one deserves.
Quantum sufficit	A sufficient quantity.
Quasi	As if; having the character of.

Quasi ex contractu	As if by contract; as if from contract.
Quid pro quo	One thing for another; this for that.
Quo warranto	An action whereby one is required to show by what right one is exercising a public office, franchise or liberty; a writ bringing the person into court on such action.

## R

Ratio legis	The reason underlying the law.
Res	A thing; the subject matter.
Res adjudicata	Once settled by a judicial decision, the party may not sue again on the same matter.
Res gestae	The facts or things done which form the basis for a litigation action.
Res ipsa loquitur	The thing speaks for itself.
Res judicata	<u>See</u> res adjudicata.
Respondeat superior	Let the principal answer for the acts of the agent.

## S

Sanae mentis	Of a sound mind; sane.
Sans recours	Without recourse.
Scilicet	(Abbr. scil.) To wit; that is to say (most often seen in pleadings abbreviated as s. or ss.)
Secundum	According to.
Secundum legem	According to law.
Secundum regulam	According to rule.
Semper fidelis	Always faithful.
Sequitur	(Abbr. seq.) It follows. <u>See</u> et sequentia.
Sine	Without.

Sine die	Without a day appointed.
Sine qua non	An indispensable condition; a requisite.
Stare decisis	To abide by decided cases.
Status quo or status in quo	The existing state of something.
Sua sponte	Of its own volition or motion; spontaneously.
Sub	Under or subordinate to.
Sub conditione	Under a condition; on condition.
Subpoena	Under penalty; a document to cause a witness to appear under penalty if he/she should not do so.
Subpoena duces tecum	A subpoena ordering a person to produce certain documents, records, or other items described therein for evidence (also under penalty for failure to appear).
Sui generis	Of his, her, or its own kind.
Supersedeas	Preventing or annulling; a writ to stay a legal proceeding.
Supra	Before; above.
<b>T</b>	
Tempus	Time
Tenere	To hold or to keep.
Toto	Whole or complete (also used in toto).
Totum	The whole.
<b>U</b>	
Ubi supra	Where above mentioned.
Ultra	Beyond; outside of; in excess of.
Ultra vires	Beyond power; beyond or exceeding legal power or authority.

Una voce	With one voice; unanimously.
Uxor	Wife.
Uxor et vir	Wife and husband.
<b>V</b>	
Vacantia bona	Goods without an owner; unclaimed goods.
Vel	Whether; or.
Vel non	Or not.
Venire facias	Writ used in summoning jurors.
Versus	(Abbr. v. or vs.) Against.
Vice versa	The order is changed; in alternative order.
Vir	Husband.
Vir et uxor	Husband and wife (also sometimes seen et ux).
Viva voce	By oral testimony; a living voice.
Vivos	Living. <u>See</u> inter vivos.
Voir dire	The preliminary examination made in court of a witness or juror to determine his/her competency or interest in a matter. Literally, to speak the truth.